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The testimony given before the judge of the fifth judicial circuit of the State of Missouri, on the trial of Joseph Smith, jr., and others, for high treason, and other crimes against that State.

FEBRUARY 15, 1841.

Ordered to be printed.

Copy of the testimony given before the Hon. Austin A. King, judge of the fifth judicial circuit in the State of Missouri, at the court-house in Richmond, in a criminal court of inquiry begun November 12, 1838.

State vs. Joseph Smith, jr., Hiram Smith, Sidney Rigdon, Parley P. Pratt, Lyman Wight, Amasa Lyman, George W. Robinson, Caleb Baldwin, Alanson Ripley, Washington Voorhees, Sidney Turner, John Buckhannon, Jacob Gates, Chandler Haldbrook, George W. Harris, Jesse D. Hunter, Andrew Whitlock, Martin C. Alfred, William Alfred, George Grant, Darwin Chase, Elijah Newman, Alvin G. Tippetts, Zedekiah Owens, Isaac Morley, Thomas Buck, Moses Clawson, John J. Tanner, Daniel Shearer, Daniel S. Thomas, Alexander McRay, Elisha Edwards, John S. Higbey, Ebenezer Page, Benjamin Covey, Ebenezer Robinson, Lyman Gibbs, James M. Henderson, David Pettigrew, Edward Partridge, Francis Higby, David Frampton, George Kimble, Joseph W. Younger, Henry Zabriskie, Allen J. Stout, Sheffield Daniels, Silas Manard, Anthony Head, Benjamin Jones, Daniel Carn, John T. Earl, and Norman Shearer; who were charged with the several crimes of high treason against the State, murder, burglary, arson, robbery, and larceny.

Sampson Avard, a witness produced, sworn, and examined on behalf of the State, deposeth and saith : That about four months since, a band, called the Daughters of Zion, (since called the Danite band,) was formed of the members of the Mormon church, the original object of which was to drive from the county of Caldwell all those who dissented from the Mormon church ; in which they succeeded admirably, and to the satisfaction of those concerned. I consider Joseph Smith, jr., as the prime mover and organizer of this Danite band. The officers of the band, according to their grades, were brought before him, at a school-house, together with Hiram Smith and Sidney Rigdon : the three composing the first presidency of the whole church. Joseph Smith, jr., blessed them, and prophesied over them : declaring that they should be the means, in the hands of God, of bringing forth the millennial kingdom. It was stated by Joseph Smith, jr., that it was necessary this band should be bound together by a covenant, that those who revealed the secrets of the society should be put to death. The covenant taken by all the Danite band was as follows, to wit : They declared,

holding up their right hands, "In the name of Jesus Christ, the Son of God, I do solemnly obligate myself ever to conceal, and never to reveal, the secret purposes of this society called the Daughters of Zion. Should I ever do the same, I hold my life as the forfeiture." The prophet Joseph Smith, jr., together with his two counsellors, (Hiram Smith and Sidney Rigdon,) were considered as the supreme head of the church; and the Danite band feel themselves as much bound to obey them, as to obey the Supreme God. Instruction was given by Joseph Smith, jr., that if any of them should get into a difficulty, the rest should help him out; and that they should stand by each other, right or wrong. This instruction was given at a Danite meeting, in a public address. As for Joseph Smith, jr., and his two counsellors, the witness does not know they ever took the Danite oath. He knows that all the rest of the defendants are Danites, except Sidney Tanner, Andrew Whitlock, Zedekiah Owens, Thomas Rich, John J. Tanner, Daniel S. Thomas, David Pettigrew, George Kimble, Anthony Head, Benjamin Jones, and Norman Shearer.

At the election last August, a report came to Far West that some of the brethren in Daviess county were killed. I called for twenty volunteers to accompany me to see into this matter. I went; and about one hundred and twenty Mormons accompanied me to *Adam on Diahmon*—Mr. Joseph Smith, jr., in company. When I arrived there, I found the report exaggerated. None were killed. We visited Mr. Adam Black—about 150 or 200 men of us armed. Joseph Smith was commander; and if Black had not signed the paper he did, it was the common understanding and belief that he would have shared the fate of the dissenters. Sidney Rigdon and Lyman Wight were at Adam when we went to Black, and advised the movement.

As regards the affair at De Witt, I know little personally; but I heard Mr. S. Rigdon say they had gone down to De Witt, where it was said a mob had collected to wage war upon the Mormons residing in Carroll county; and that Joseph Smith, jr., with his friends, went down to De Witt to give aid and help to his brethren. The company, as I presume, were armed. They returned armed. Hiram Smith and George W. Robinson were in the company. Amasa Lyman went to see what was going on. He heard these persons say they were in Hinkle's camp (at De Witt) several days. When the Mormons returned from De Witt, it was rumored that a mob was collecting in Daviess county. Joseph Smith, jr., the Sunday before the late disturbances in Daviess, at a church meeting, gave notice that he wished the whole county collected on the next day (Monday) at Far West. He declared (on Sunday or Monday—I don't recollect which) that all who did not take up arms in defence of the Mormons of Daviess should be considered as Tories, and should take their exit from the country.

At the meeting on Monday, when persons met from all parts of the county of Caldwell, Joseph Smith, jr., took the pulpit, and delivered an address, in which he said that we had been an injured people, driven violently from Jackson county; that we had appealed to the Governor, magistrates, judges, and even to the President of the United States, and there had been no redress for us; and that now a mob was about to destroy the rights of our brethren of Daviess county, and that it was high time that we should take measures to defend our own rights. In the address, he related an anecdote about a captain who applied to a Dutchman to purchase potatoes, who refused to sell. The captain then

charged his company, several different times, not to touch the Dutchman's potatoes. In the morning the Dutchman had not a potatoe left in his patch. This was in reference to touching no property in our expedition to Daviess county that did not belong to us, but he told us that the children of God did not go to war at their own expense. A vote was taken whether the brethren should embody and go down to Daviess to attack the mob. This question was put by the prophet, Joseph Smith, jr., and passed unanimously, with a few exceptions. Captains Patten and Brunson were appointed commanders of the Mormons, by Joseph Smith, jr., to go to Daviess. He frequently called these men generals. I once had a command as an officer, but Joseph Smith, jr., removed me from it, and I asked him the reason, and he assigned that he had another office for me. Afterwards Mr. Rigdon told me I was to fill the office of surgeon, to attend to the sick and wounded. After we arrived at Diahmon, in Daviess, a council was held at night, composed of Joseph Smith, jr., George W. Robertson, Hiram Smith, Captains Patten and Brunson, Lyman Wight, President R. Cahoon, P. P. Pratt, and myself, and perhaps Mr. Hinkle. President Rigdon was not present. He remained at Far West; a correspondence was kept up between him and Joseph Smith, jr. I heard Mr. Rigdon read one of the letters from Smith, which, as I remember, was about as follows: That he knew, from prophecy and from the revelation of Jesus Christ, that the enemies of the kingdom were in their hands; and that they (the Mormon church) should succeed. Rigdon, on reading the letter, said it gave him great consolation to have such authority that the kingdom of God was rolling on. In the above referred to council, Mr. Smith spoke of the grievances we had suffered in Jackson, Clay, Kirtland, and other places; declared that we must, in future, stand up for our rights as citizens of the United States, and as saints of the most high God; and that it was the will of God we should do so; that we should be free and independent, and that as the State of Missouri, and the United States, would not protect us, it was high time that we should be up, as the saints of the most high God, and protect ourselves, and take the kingdom. Lyman Wight observed, that, before the winter was over, he thought we would be in St. Louis, and take it. Smith charged them that they should be united in supporting each other. Smith said, on some occasions, that one should chase a thousand, and two put ten thousand to flight; that he considered the United States rotten. He compared the Mormon church to the little stone spoken of by the Prophet Daniel; and the dissenters first, and the State next, was part of the image that should be destroyed by this little stone. The council was called on to vote the measures of Smith; which they did unanimously. On the next day Captain Patten (who was called by the prophet Captain Fearnaught) took command of about one hundred armed men, and told them that he had a job for them to do, and that the work of the Lord was rolling on, and they must be united. He then led the troops to Gallatin, saying he was going to attack the mob there. He made a rush into Gallatin, dispersed the few men there, and took the goods out of Stolling's store, and carried them to Diahmon, and I afterwards saw the storehouse on fire. When we returned to Diahmon, the goods were deposited in the Lord's storehouse, under the care of Bishop Vincent Knight. Orders were strictly given that all the goods should be deposited in the Lord's storehouse. No individuals were to appropriate any thing to themselves until a general distribution should be made. Joseph Smith, jr., was at Adam on Diah-

mon, giving directions about things in general connected with the war. When Patten returned from Gallatin to Adam on Diahmon, the goods were divided or apportioned out among those engaged; and these affairs were conducted under the superintendence of the first presidency. A part of the goods were brought to Far West. On their arrival, under the care of Captain Fearnought, President Rigdon shouted three hosannahs to the victors. On the day Patten went to Gallatin, Colonel Wight went to Millport, as I understood. I saw a great many cattle, beds, furniture, &c., brought into our camp by the Mormons. After we returned to Far West, the troops were constantly kept in motion, and there was a council held at the house of President Rigdon to determine who should be chiefs. It was determined that Colonel Wight should be commander-in-chief at Adam on Diahmon; Brunson, captain of the flying-horse of Daviess; Colonel Hinkle should be commander-in-chief of the Far West troops; Captain Patten, captain of the flying-horse, or cavalry; and that the prophet, Joseph Smith, jr., should be commander-in-chief of the whole kingdom. The council was composed of Joseph Smith, jr., Captain Fearnought, alias Patten, Colonel Hinkle, Colonel Wight, and President Rigdon. The object of the council was in furtherance of the scheme proposed in council in Daviess, referred to above. After this council, Fearnought disputed as to the chief command of the Far West troops, and had a smart altercation about it with Hinkle, but Smith proposed that they agree to disagree, and go on for the good of the kingdom. The troops were kept together until the militia came out lately. There were five hundred to eight hundred men, as I should suppose, under arms. It was about the time that the militia came out lately to Far West, under General Lucas, that our prophet assembled the troops together at Far West, into a hollow square, and addressed them, and stated to them that the kingdom of God should be set up, and should never fall; and for every one we lacked in number of those who came against us, the Lord would send angels, who would fight for us; and that we should be victorious. After the militia had been near Far West awhile, in an address, Smith said that those troops were militia, and that we were militia too, and both sides clever fellows; and he advised them to know nothing of what had happened; to say nothing; and to keep dark: that he, Smith, had forgotten more than he had ever known. After it was ascertained that the militia had arrived, intelligence was immediately sent to Diahmon, to Colonel Wight. Next morning Colonel Wight arrived in Far West with about one hundred mounted and armed men. The troops were constantly kept prepared, and in a situation to repel attack. The evening the militia arrived near Far West, it was the general understanding in the Mormon camp that they were militia legally called out; and, indeed, previous to their arrival, it was ascertained that there were militia on their way to Far West. Some months ago I received orders to destroy the paper concerning the Danite Society; which order was issued by the first presidency, and which paper, being the constitution for the government of the Danite Society, was in my custody, but which I did not destroy. It is now in General Clark's possession. I gave the paper up to General Clark after I was taken prisoner. I found it in my house, where I had previously deposited it, and believe it never had been in any person's possession after I first received it. This paper was taken into President Rigdon's house, and read to the prophet and his councillors, and was unanimously adopted by them as their rule and guide in future. After it

was thus adopted, I was instructed by the council to destroy it, as, if it should be discovered, it would be considered treasonable. This constitution, after it was approved by the first presidency, was read, article by article, to the Danite band, and unanimously adopted by them. This paper was drawn up about the time that the Danite band was formed. Since the drawing up of the paper against the dissenters, it was that this constitution of the Danite band was draughted; but I have no minutes of the time, as we were directed not to keep written minutes; which constitution, above referred to, is as follows:

"Whereas, in all bodies laws are necessary for the permanency, safety, and well-being of society, we, the members of the Society of the Daughters of Zion, do agree to regulate ourselves under such laws as, in righteousness, shall be deemed necessary for the preservation of our holy religion, and of our most sacred rights, and the rights of our wives and children. But, to be explicit on the subject, it is especially our object to support and defend the rights conferred on us by our venerable sires, who purchased them with the pledges of their lives, their fortunes, and their sacred honors. And now, to prove ourselves worthy of the liberty conferred on us by them, in the providence of God, we do agree to be governed by such laws as shall perpetuate these high privileges, of which we know ourselves to be the rightful possessors, and of which privileges wicked and designing men have tried to deprive us, by all manner of evil, and that purely in consequence of the tenacity we have manifested in the discharge of our duty towards our God, who had given us those rights and privileges, and a right, in common with others, to dwell on this land. But we, not having the privileges of others allowed unto us, have determined, like unto our fathers, to resist tyranny, whether it be in kings or in the people. It is all alike unto us. Our rights we must have, and our rights we shall have, in the name of Israel's God.

"ART. 1st. All power belongs originally and legitimately to the people, and they have a right to dispose of it as they shall deem fit; but, as it is inconvenient and impossible to convene the people in all cases, the legislative powers have been given by them, from time to time, into the hands of a representation composed of delegates from the people themselves. This is and has been the law both in civil and religious bodies, and is the true principle.

"ART. 2d. The executive power shall be vested in the president of the whole church and his councillors.

"ART. 3d. The legislative powers shall reside in the president and his councillors together, and with the generals and colonels of the society. By them all laws shall be made regulating the society.

"ART. 4th. All offices shall be during life and good behaviour, or to be regulated by the law of God.

"ART. 5th. The society reserves the power of electing all its officers, with the exception of the aids and clerks which the officers may need in their various stations. The nomination to go from the presidency to his second, and from the second to the third in rank, and so down through all the various grades. Each branch or department retains the power of electing its own particular officers.

"ART. 6th. Punishments shall be administered to the guilty, in accordance to the offence; and no member shall be punished without law, or by any others than those appointed by law for that purpose. The Legislature shall

have power to make laws regulating punishments, as, in their judgments, shall be wisdom and righteousness.

"ART. 7th. There shall be a secretary, whose business it shall be to keep all the legislative records of the society, and also to keep a register of the names of every member of the society; also the rank of the officers. He shall also communicate the laws to the generals, as directed by laws made for the regulation of such business by the Legislature.

"ART. 8th. All officers shall be subject to the commands of the Captain General, given through the Secretary of War; and so all officers shall be subject to their superiors in rank, according to laws made for that purpose."

In connexion with the grand scheme of the prophet, his preachers and apostles were instructed to preach to and instruct their followers (who are estimated in Europe and America at about 40,000) that it was their duty to come up to the State called Far West, and to possess the kingdom; that it was the will of God they should do so; and that the Lord would give them power to possess the kingdom. There was another writing drawn up in June last, which had for its object to get rid of the dissenters, and which had the desired effect; (this is the paper drawn up against the dissenters, referred to by the witness.) Since that time, and since the introduction of the scheme of the prophet made known in the above constitution, I have [*heard*] the prophet say that it was a fortunate thing that we got rid of the dissenters, as they would have endangered the rolling on of the kingdom of God as introduced, and to be carried into effect, by the Danite band; that they, the dissenters, were great obstacles in the way; and that, unless they were removed, the aforesaid kingdom could not roll on. This paper against the dissenters was draughted by Sidney Rigdon, and is as follows:

"FAR WEST, June, 1838.

"To Oliver Cowdrey, David Whitmer, John Whitmer, William W. Phelps, and Lyman E. Johnson, greeting:

"Whereas the citizens of Caldwell county have borne with the abuse received from you at different times, and on different occasions, until it is no longer to be endured; neither will they endure it any longer, having exhausted all the patience they have, and conceive that to bear any longer is a vice instead of a virtue. We have borne long, and suffered incredibly; but we will neither bear nor suffer any longer; and the decree has gone forth from our hearts, and shall not return to us void. Neither think, gentlemen, that, in so saying, we are trifling with either you or ourselves; for we are not. There are no threats from you—no fear of losing our lives by you, or by any thing you can say or do, will restrain us; for out of the county you shall go, and no power shall save you. And you shall have three days after you receive this communication *to you*, including twenty-four hours in each day, for you to depart with your families peaceably; which you may do undisturbed by any person; but in that time, if you do not depart, we will use the means in our power to cause you to depart; for go you shall. We will have no more promises to reform, as you have already done, and in every instance violated your promise, and regarded not the covenant which you had made, but put both it and us at defiance. We have solemnly warned you, and that in the most determined manner, that if you did not cease that course of wanton abuse of the citizens of this county, that vengeance would overtake you sooner or later, and that when

it did come it would be as furious as the mountain torrent, and as terrible as the beating tempest ; but you have affected to despise our warnings, and pass them off with a sneer, or a grin, or a threat, and pursued your former course ; and vengeance sleepeth not, neither does it slumber ; and unless you heed us this time, and attend to our request, it will overtake you at an hour when you do not expect, and at a day when you do not look for it ; and for you there shall be no escape ; for there is but one decree for you, which is depart, depart, or a more fatal calamity shall befall you.

"After Oliver Cowdrey had been taken by a State warrant for stealing, and the stolen property found in the house of William W. Phelps ; in which nefarious transaction John Whitmer had also participated. Oliver Cowdrey stole the property, conveyed it to John Whitmer, and John Whitmer to William W. Phelps ; and then the officers of law found it. While in the hands of an officer, and under an arrest for this vile transaction, and, if possible, to hide your shame from the world like criminals, (which, indeed, you were,) you appealed to our beloved brethren, Presidents Joseph Smith, jr., and Sidney Rigdon, men whose characters you had endeavored to destroy by every artifice you could invent, not even the basest lying excepted ; and did you find them revengeful ? No ; but notwithstanding all your scandalous attacks, still, such was the nobleness of their character, that even vile enemies could not appeal to them in vain. They enlisted, as you well know, their influence, to save you from your just fate ; and they, by their influence, delivered you out of the hands of the officer. While you were pleading with them, you promised reformation ; you bound yourselves by the most solemn promises that you would never be employed again in abusing any of the citizens of Caldwell ; and by such condescensions did you attempt to escape the work house. But now for the sequel. Did you practise the promised reformation ? You know you did not ; but, by secret efforts, continued to practise your iniquity, and secretly to injure their character, notwithstanding their kindness to you. Are such things to be borne ? You yourselves would answer that they are insufferable, if you were to answer according to the feelings of your own hearts. As we design this paper to be published to the world, we will give an epitome of your scandalous conduct and treachery for the last two years. We wish to remind you that Oliver Cowdrey and David Whitmer were among the principal of those who were the means of gathering us to this place by their testimony which they gave concerning the plates of the Book of Mormon ; that they were shown to them by an angel ; which testimony we believe now, as much as before you had so scandalously disgraced it. You commenced your wickedness by heading a party to disturb the worship of the saints in the first day of the week, and made the house of the Lord, in Kirtland, to be a scene of abuse and slander, to destroy the reputation of those whom the church had appointed to be their teachers, and for no other cause only that you were not the persons.

"The saints in Kirtland having elected Oliver Cowdrey to be a justice of the peace, he used the power of that office to take their most sacred rights from them, and that contrary to law.

"He supported a parcel of blacklegs, and in disturbing the worship of the saints ; and when the men whom the church had chosen to preside over their meetings endeavored to put the house to order, he helped (and by the authority of his justice's office, too) these wretches to continue their confusion ; and threatened the church with a prosecution for trying to put them

out of the house ; and issued writs against the saints for endeavoring to sustain their rights ; and bound themselves under heavy bonds to appear before his honor ; and required bonds which were both inhuman and unlawful ; and one of these was the venerable father, who had been appointed by the church to preside—a man of upwards of seventy years of age, and notorious for his peaceable habits. Oliver Cowdrey, David Whitmer, and Lyman E. Johnson, united with a gang of counterfeiters, thieves, liars, and blacklegs of the deepest dye, to deceive, cheat, and defraud the saints out of their property, by every art and stratagem which wickedness could invent ; using the influence of the vilest persecutions to bring vexatious lawsuits, villanous prosecutions, and even stealing not excepted. In the midst of this career, for fear the saints would seek redress at their hands, they breathed out threatenings of mobs, and actually made attempts with their gang to bring mobs upon them. Oliver Cowdrey and his gang (such of them as belonged to the church) were called to an account by the church for their iniquity. They confessed repentance, and were again restored to the church ; but the very first opportunity they were again practising their former course. While this wickedness was going on in Kirtland, Cowdrey and his company were writing letters to Far West, in order to destroy the character of every person that they thought was standing in their way ; and John Whitmer and William W. Phelps were assisting to prepare the way to throw confusion among the saints of Far West. During the full career of Oliver Cowdrey and David Whitmer's bogus money business, it got abroad into the world that they were engaged in it, and several gentlemen were preparing to commence a prosecution against Cowdrey ; he finding it out, took with him Lyman E. Johnson, and fled to Far West with their families ; Cowdrey stealing property, and bringing it with him, which has been, within a few weeks past, obtained by the owner, by means of a search-warrant ; and he was saved from the penitentiary by the influence of two influential men of the place. He also brought notes with him, upon which he had received pay, and made an attempt to sell them to Mr. Arthur of Clay county. And Lyman E. Johnson, on his arrival, reported that he had a note of one thousand dollars against a principal man of this church, when it was a palpable falsehood, and he had no such thing ; and he did it for the purpose of injuring his character. Shortly after Cowdrey and Johnson left Kirtland for Far West, they were followed by David Whitmer ; on whose arrival a general system of slander and abuse was commenced by you all, for the purpose of destroying the characters of certain individuals, whose influence and strict regard for righteousness you dreaded ; and not only yourselves, but your wives and children, led by yourselves, were busily engaged in it. Neither were you contented with slandering and vilifying here, but you kept up continual correspondence with your gang of marauders in Kirtland, encouraging them to go on with their iniquity ; which they did to perfection, by swearing falsely to injure the characters and property of innocent men, stealing, cheating, lying, instituting vexatious lawsuits, selling bogus money, and also stones and sand for bogus ; in which nefarious business Oliver Cowdrey, David Whitmer, and Lyman E. Johnson were engaged while you were there. Since your arrival here, you have commenced a general system of that same kind of conduct in this place. You set up a nasty, dirty, pettifogger's office, pretending to be judges of the law, when it is a notorious fact that you are profoundly ignorant of it, and of every other thing which is calculated to do mankind good ; or, if you know it, you take

good care never to practise it. And, in order to bring yourselves into notice, you began to interfere with all the business of the place, trying to destroy the character of our merchants, and bringing their creditors upon them, and break them up. In addition to this, you stirred up men of weak minds to prosecute one another, for the vile purpose of getting a fee for pettifoggery from one of them. You have also been threatening continually to enter into a general system of prosecuting, determined, as you said, to pick a flaw in the titles of those who have bought city lots and built upon them—not that you can do any thing but cause vexatious lawsuits.

“And, amongst the most monstrous of all your abominations, we have evidence (which, when called upon, we can produce,) that letters sent to the post office in this place have been opened, read, and destroyed, and the persons to whom they were sent never obtained them; thus ruining the business of the place. We have evidence of a very strong character that you are at this very time engaged with a gang of counterfeiters, coiners, and blacklegs, as some of those characters have lately visited our city from Kirtland, and told what they had come for; and we know, assuredly, that if we suffer you to continue, we may expect, and that speedily, to find a general system of stealing, counterfeiting, cheating, and burning property, as in Kirtland—for so are your associates carrying on there at this time; and that, encouraged by you, by means of letters you send continually to them; and, to crown the whole, you have had the audacity to threaten us that, if we offered to disturb you, you would get up a mob from Clay and Ray counties. For the insult, if nothing else, and your threatening to shoot us if we offered to molest you, we will put you from the county of Caldwell: so helps God.”

The above was signed by some 84 Mormons.

About the time the dissenters fled, President Rigdon preached a sermon from the text, “Ye are the salt of the earth; but if the salt hath lost its savor, wherewith shall it be salted? It is thenceforth good for nothing, but to be cast out, and be trodden under foot of men”—commonly called the salt sermon; in which the dissenters were called the salt that had lost its savor, and that they should be trampled upon and driven out by the saints; which was well understood by the Danites to be a part of their duty to do.

When General Lucas's men marched up to Far West, Smith told me, as I understood him, that he had said to one of the militia captains not to come any farther, as he might get into danger. Smith, after erecting his bulwarks, (the night after General Lucas arrived,) asked me if I did not think him pretty much of a general; and I answered in the affirmative. We were advised, all the time, to fight valiantly, and that the angels of the Lord would appear in our defence and fight our battles.

In reference to Bogart's battle, I know but little, personally, as to the start of the troops to fight Bogart. I was called upon to go along with the company (which was commanded by Patten) as surgeon. This was about midnight; but as I thought a little sleep would do me more good than fighting, I remained at home. In the morning of the fight, about 6 o'clock, I was called upon by a Mr. Emmett, who informed me that Captain Fearnought was wounded mortally. I went to Patten, about three miles from the battleground, where I found Jos. Smith, jr., present, laying hands on the wounds, and blessing them to heal them. A Mr. O'Bannion was also mortally wounded. I heard the following of the prisoners say he was present in the fight, to wit: Norman Shearer—

[The gap in the testimony is not supplied from the evidence on file. For remainder of Dr. Avard's testimony, see page 21.]

Nehemiah Odell, sen., a witness, produced, sworn, and examined for the State, deposeth and saith : That he was in the battle between Capt. Bogart and the Mormons, on the 25th of October last, and says Parley P. Pratt was in the battle, commanding part of the Mormon forces, on that occasion—the officer who gave the command to the Mormons, after some kind of religious ceremony, to about this amount : “ In the name of Lazarus, God, and the Lamb, fire, Danites ;” and, after firing twice, they charged ; but which party fired first, I don't recollect. And further this deponent saith not.

NEHEMIAH ODELL.

Captain Samuel Bogart, a witness, produced, sworn, and examined for the State, deposeth and saith : That, on the evening of the 24th October last, while ranging under the orders of General Atchison, as is below inserted, I met with several Mormons, and read it to them, supposing they would inform the Mormons of Caldwell of the character of my company. We had been informed, on that evening, by citizens of Ray, that we were in danger of being attacked by the Mormons that night ; whereupon I fell back to an encampment on Crooked river, in Ray county. On the next morning, near daybreak, my picket guard gave information that they were coming ; and, in a few moments, I saw the Mormon forces forming, and a few guns were fired out of the brush by the Mormons. When the fight commenced, the left wing of the Mormons was within about thirty steps of my right, and in number were about 150 or 200, as I supposed. And further this deponent saith not.

SAMUEL BOGART.

The order under which Captain Bogart was ranging the north part of Ray county, when attacked by the Mormons, was produced, and read in court as evidence, and is as follows :

HEADQUARTERS, 3D DIVISION MISSOURI MILITIA,
Liberty, October 23, 1838.

SIR: Your communication by express has been received. You are hereby ordered to range the line between Caldwell and Ray counties, with your company of volunteers, and prevent, if possible, any invasion of Ray county by any persons in arms whatever. You will also take care to inquire into the state of things in Daviess county, and make report thereof to me, from time to time. I will endeavor to be with you in a few days, &c.

DAVID R. ATCHISON,
Major General 3d division Missouri militia.

Captain S. BOGART.

Wyatt Cravens, a witness, produced, sworn, and examined for the State, deposeth and saith : He was one in Captain Bogart's company, and was present in the fight with the Mormons the 25th October last, about daybreak, in Ray county. Parley P. Pratt and Captain Patten appeared in command of the company that made an attack upon us. We were lying in camp when we heard them coming. We got up, and prepared for battle. The Mormons came within about sixty yards of us, and formed the line of battle. They approached in a body, numbering, as near as I could guess,

about 150, armed with guns, swords, and pistols, to within about forty yards of us, when the firing commenced by both parties, about the same time : I can't say which side fired first. I was taken prisoner by the Mormons. I saw Joseph Smith, jr., come up to the Mormons at a house in Log creek timber, a few miles from the battle-ground. The wounded were taken out of the wagon there, and we started on towards Far West. J. Smith, jr., passed on by me to the head of the company, where Pratt and Wight were riding. After getting into the prairie, Wight halted the company. He, Pratt, and four others, rode off a piece, and conferred together, and then returned to the company, and called out some captain, and ordered him to call out ten of his braves. Seven men came out, and I was placed under their guard, and told by Wight that they would escort me off, and let me go about my business. We started back, and, after getting near a field, the captain of the guard and one of them, rode off ahead, saying they saw some one. Shortly after, the captain returned alone. He declared that I should be guarded no farther, and pointed out the path I should take ; which led around the fence. I then thought the man who had not returned had been placed round the fence to kill me ; but I was determined to do the best I could to make my escape. In passing on, I discovered my direction would lead me to where I thought the man was placed, and I took off to the right, and immediately I was ordered to stop by some person, whom I recognised to be the man of the guard who left with the captain of the guard, and did not return. I fled, and turned my head to look, and saw the man with his gun in a shooting position ; and shortly after, while running, I was shot by him ; and I made my way to Ray county. Parley P. Pratt was in the battle. Moses Rowland, one of Captain Bogart's men, and several of the Mormons, *was* killed in that battle. Five of Bogart's company, including myself, were wounded. And further this deponent saith not.

WYATT CRAVENS.

Morris Phelps, a witness, produced, sworn, and examined for the State, deposeth and saith : That Parley P. Pratt was in the battle with Bogart. Darwin Chase was one of the expedition, but not in the battle. Lyman Gibbs was in the battle ; thinks Benjamin Jones was in the battle. Norman Shearer was, also, and wounded. I was called upon, by Charles C. Rich, to go down to Crooked river, to help relieve some Mormon prisoners, who, it was said, had been taken by a mob. I first refused to go ; but, being threatened with force, I consented to go. We proceeded to McDaniel's field, in Ray county, where we were commanded to hitch our horses ; and we proceeded down to where Captain Bogart was encamped—myself in the extreme rear. The fight was brought on, but I was not in it. On our return from the battle-ground, near Log creek timber, in Caldwell county, we met Joseph Smith, jr., Lyman Wight, and others, who went to the wounded and pronounced blessings on them, and prayed for them to be healed and saved. When we started from McDaniel's field fence, the only command given, that I heard, was, Boys, follow me ! given by the commander. I have been in two Danite meetings. The first, I did not make any exception to ; and, in the second, the following exceptionable [doctrine] was inculcated : " that we should take spoil, or plunder, in some cases ; " but it was objected to, and I have never attended a Danite meeting since. The day before the Mormons went to *Adam on Diakmon*, J. Smith, jr.,

in an address, told an anecdote of a Dutchman, who had been applied to by a captain to purchase potatoes, &c. Rigdon, in speaking of dissenters, who were unwilling to fight mobs, said that they ought to be pitched upon their horses with pitchforks and bayonets, and forced into the front of the battle, and their property confiscated to the use of the army. The anecdote spoken of above, about the Dutchman, was told by Smith, after Rigdon's address, and without any application of it by him. And further this deponent saith not.

MORRIS PHELPS.

John Corril, a witness produced, sworn, and examined in behalf of the State, deposeth and saith : That about last June I was invited to a private meeting, in which an effort was made to adopt some plan to get rid of the dissenters. There were some things I did not like, and opposed it with others, and failed. After that, I met President Rigdon, and he told me I ought not to have any thing to do with it ; that they would do as they pleased. I took his advice. I learned afterwards that they had secret meetings ; but I was never invited. None of the first presidency was present at the meeting above referred to. We have a rule in the church, authorizing any member to consecrate or give voluntarily his surplus property to the church, for charitable purposes. President Rigdon last summer preached a sermon, commonly called the Salt sermon, which seemed to have for its object to produce a feeling among the people to get rid of the dissenters, for crimes alleged, and because they disagreed with them. In a few days there seemed considerable excitement among the people, and the dissenters left, as I advised them they were in danger. I was afterwards invited to one of these meetings, where an oath, in substance the same as testified to by Dr. Averd, was administered. The society was ultimately organized into companies, and captains of tens and fifties were appointed. I took exceptions only to the teaching as to the duties of that society, wherein it was said, if one brother got into any kind of a difficulty, it was the duty of the rest to help him out, right or wrong. At the second, or at least the last meeting I attended, the presidency, (to wit: Joseph Smith, jr., Hiram Smith, and Sidney Rigdon,) and also George W. Robertson, was there. There was at this meeting a ceremony of introducing the officers of the society to the presidency, who pronounced blessings on each of them, as introduced, exhorting to faithfulness in their calling, and they should have blessings. After this, President Smith got up and made general remarks about, in substance, as follows : relating the oppressions the society had suffered, and they wanted to be prepared for further events ; but said he wished to do nothing unlawful, and, if the people would let him alone, they would preach the gospel and live in peace. Towards the close, he observed to the people that they should obey the presidency, and, if the presidency led them astray, they might destroy them. In the last, or in some public meeting, Joseph Smith, jr. said : if the people would let us alone, we would preach the gospel to them in peace ; but, if they came on us to molest us, we would establish our religion by the sword ; and that he would become to this generation a second Mahomet.

About April last, I heard Joseph Smith, jr. and President Rigdon (who appeared to be vexed, on account of troubles and lawsuits they had had) say that they would suffer vexatious lawsuits no longer, and that they would resist even an officer in the discharge of his duty. Smith said he had been

before courts some twenty odd times; they had never found any thing against him, and that made him of age; and he would submit to it no longer. I heard S. Rigdon's fourth of July speech. I heard him say he would not suffer people to come into their streets and abuse them, nor would they suffer vexatious law-suits. In substance, he further remarked, that "neither will we permit any man or set of men to institute vexatious law-suits against us, to cheat us out of our just rights; if they do, wo be unto them."

This Mormon church has been represented as being the little stone spoken of by Daniel, which should roll on and crush all opposition to it, and ultimately should be established as a temporal as well as a spiritual kingdom. These things were to be carried on through the instrumentality of the Danite band, as far as force was necessary; if necessary, they being organized into bands of tens, fifties, &c. ready for war. The teachings of that society led them to prohibit the talkings of any persons against the presidency; so much so, that it was dangerous for any man to set up opposition to any thing that might be set on foot, and I became afraid to speak my own mind. I objected to the course of Dr. Avard, in reference to the Danite band. I rather thought Joseph Smith, jr. upheld him, and would not allow any objections to him. After the return of the Mormons from De Witt, I heard Joseph Smith, jr., in the presence of Hiram Smith, in a conversation, say that an application had been made to the Governor, and that they understood that he would give them no assistance, and they were determined to withstand the mob. They were greatly incensed against certain persons in Caldwell and Daviess, and said they intended to rid the counties of them and of the mob, in the course of that week. This was on Sunday morning, and in the course of that day instructions were given to meet the next day, (Monday.) On Monday, Joseph Smith, jr. made a speech; and some resolutions were passed, purporting that those persons who would not engage in their undertaking, their property should be consecrated [confiscated] to the use of those who did engage in their undertaking. On Sunday, Joseph Smith, jr., in his discourse, spoke of persons taking, at some times, what, at other times, it would be wrong to take; and gave as an example the case of David eating the shewbread, and also of the Saviour and his Apostles plucking the ears of corn and eating, as they passed through the cornfield. He supposed the prejudices of the Jews and Pharisees were so great against the Saviour, that they would give them nothing to eat, and they took that method to get it. On the Monday when the resolutions above referred to were introduced, President Rigdon, in a speech, said that those who were unwilling to go into the war ought to put upon their horses with guns and bayonets, and forced into the front of the war—having reference to those who heretofore had been backward in defending themselves and families. No persons were suffered to leave the county in this extreme time, and I met with Phelps to consult as to what we ought to do.

After the troops got to Diahmon, in all about four or five hundred men, I heard Lyman Wight addressing a portion of the men, who were there, (perhaps eight or ten :) "that the earth was the Lord's, and the fulness thereof, with the cattle upon a thousand hills; and if I was an hungry, I would not tell you;" that the Saints of the Lord had the same privilege or rights. After that, or perhaps the next day, I saw a drove of some four or five cattle pass along, and asked what cattle these were; and was answered that they were a drove of buffalo; others observed, they were cattle a Meth-

odist priest had consecrated. Joseph Smith, jr., Hiram Smith, Parley P. Pratt, Lyman Wight, George W. Robertson, Caleb Baldwin, Alanson Ripley, George W. Harris, George Grant, Darwin Chase, Alexander McRay, Edward Partridge, Joseph W. Younger, and probably James W. Rawlins, were in the expedition that went to Daviess county, at the time Gallatin was burnt. On the same day that the company went to Gallatin, Lyman Wight went with a company to Millport, as I understood. He returned, and made a report (as I understood it to be) to Joseph Smith, jr., in which he said he found nothing to fight but fences and empty houses. I understood him to say the people had not taken away all their property. Smith, the prophet, here asked him if they had taken the negroes. He said, yes. Some one then laughingly observed, Smith, you have lost your negro; to which, I think, he made no reply.

Joseph Smith, jr. asked Wight if he had done any thing with the property remaining in Millport? Wight said not; they would leave that matter for a private council.

Lyman Gibbs told me he went down with the expedition that fought Bogart, and he remained behind three-quarters of a mile from the battle-ground, holding horses. I feel confident Isaac Morley was not in the fight with Bogart. I think the original object of the Danite band was to operate on the dissenters; but afterwards it grew into a system to carry out the designs of the presidency; and, if necessary to use physical force to upbuild the kingdom of God; it was to be done by them. This is my opinion as to their object, and I learned it from various sources connected with that band. It was my understanding that Dr. Avard's teaching in the Danite society proceeded from the presidency. I never heard that constitution, spoken of by Dr. A., read in the society when I was present; nor did I ever hear of it until lately. And further this deponent saith not.

JOHN CORRILL.

James C. Owens, a witness produced, sworn, and examined on behalf of the State, deposeth and saith: In the morning of the day that the militia arrived at Far West, I heard Joseph Smith, jr., in a speech to the Mormon troops, say that he did not care any thing about the coming of the troops, nor about the laws; that he had tried to please them. If they lived together, it wouldn't please them; if they scattered, it wouldn't please them; and that he did not intend to try to keep the laws, or to please them any longer;—that they were a damned set, and God should damn them, so help him Jesus Christ: that he meant to go on then, as he had begun, and take his own course, and kill and destroy, and told the men to fight like angels; that heretofore he had told them to fight like devils, but now he told them to fight like angels—that angels could whip devils. I think in this speech it was that he said what they lacked in number, the Lord would make up by sending angels, and send two angels where they lacked one man. He swore considerably, and observed that they might think that he was swearing; but that God Almighty would not take notice of him in cursing such a damned set as they were. He further stated that they pretended to come out as militia, but that they were all a damned set of mobs. He stated, at that, or some other time, that as they had commenced consecrating in Daviess county, that he intended to have the surrounding counties consecrated to him; that the time had come when the riches of the Gentiles should be consecrated to the Saints.

While the last expedition was in progress in Daviess county, a portion of the troops returned to Far West, to whom, and to the people assembled, I understood Sidney Rigdon had read a letter from Joseph Smith, jr. I asked him to read it to me ; which he did, and it was, as near as I can recollect, as follows : That the enemy was delivered into their hands, and that they need not fear ; that this had been given to him by the spirit of prophesy, in the name of Jesus Christ. Sidney Rigdon appeared to rejoice at the information, and give into the thing. A few days before the militia got to Far West, Joseph Smith, jr., observed that he didn't intend to obey the laws any longer, that he had a great many writs served on him, and that he was of age, and did not intend to have another served on him. And further this deponent saith not.

JAMES C. OWENS.

Nathaniel Carr, a witness, produced, sworn, and examined in behalf of the State, deposeth and saith : While the last expedition was going on in Daviess county, a portion of the troops returned to Far West, and was paraded before Mr. Rigdon's door ; a letter was produced by him, received, as he said, from Joseph Smith, jr. and Lyman Wight, and perhaps Hiram Smith, and, I think, Elias Higbee. The letter was read, which stated something like this : that all things were going on well in Daviess, that they had nothing to fear, and that the enemy was in their hands. I understood, from what was said in the letter, that they knew this from revelation. The letter was read to about two hundred men, most of them under arms. The town appeared under military rule ; picket-guards were sent out morning and evening. This state of things was continued for three or four weeks, and until the Mormons surrendered their arms. When the forces that went out to attack Bogart were collecting, about midnight, I heard them say that a mob was collecting near Field's, who had taken some of the brethren prisoners ; and that they were collecting a company to release them. And further this deponent saith not.

NATHANIEL CARR.

John Cleminson, a witness, produced, sworn, and examined, in behalf of the State, deposeth and saith : Some time in June, I attended two or three Danite meetings ; and it was taught there, as a part of the duty of the band, that they should support the presidency in all their designs, right or wrong ; that whatever they said was to be obeyed, and whoever opposed the presidency in what they said, or desired done, should be expelled *from* the county, or have their lives taken. The three composing the presidency *was* at one of those meetings ; and to satisfy the people, Dr. Avard called on Joseph Smith, jr., who gave them a pledge, that if they led them into a difficulty he would give them his head for a foot-ball, and that it was the will of God these things should be so. The teacher and active agent of the society was Dr. Avard, and his teachings were approved of by the presidency. Dr. Avard further taught as a part of their obligation, that if any one betrayed the secret designs of the society, *they* should be killed and laid aside, and nothing said about it.

I heard Sidney Rigdon's sermon, commonly called the "salt sermon," and its purport and design was about as other witnesses have stated before me. When process was filed against Joseph Smith and others, in my office as clerk of Caldwell circuit court, for trespass, Joseph Smith, jr., told me

not to issue that writ ; that he did not intend to submit to it ; that it was a vexatious thing, and I had a right to judge whether a suit was vexatious or not, and that he would see me out in it. Hiram Smith (who was not a defendant in that suit) also joined him in this promise, if I would not issue the writ. This was previous to the last term of the Caldwell circuit court. I considered myself not as a proper judge as to whether it was a vexatious suit or not. Joseph Smith, jr., said it was a vexatious thing, and that he would not suffer it to be issued ; and I felt myself intimidated and in danger, if I issued it, knowing the regulation of the Danite band.

On the Monday prior to the last Daviess expedition, I heard Mr. Rigdon say that those who had heretofore been backward in taking up arms in defending themselves ought to, or should, be put upon their horses with bayonets and pitchforks ; and Smith said, forced into the front of the battle ; and that the property of those who would not go into the war should be consecrated to the use of those who did. Mr. Smith said their beef, corn, and potatoes they would take.

I went in the expedition to Daviess in which Gallatin was burnt, as I felt myself compelled to go from the regulations which had been made.

It was generally understood that every movement made in Daviess was under the direction and supervision of the first presidency—of whom, Joseph Smith, jr., and Hiram Smith were in Daviess. The following of the defendants were in the expedition to Daviess, viz : Joseph Smith, jr., Hiram Smith, P. P. Pratt, Lyman Wight, Caleb Baldwin, and Alanson Ripley. John Buckhannon was not there ; George W. Harris was there ; Darwin Chase was there ; Elijah Newman was not there ; Isaac Morley was not there ; Moses Clawson, I think, was there ; Alexander McRay was there ; John S. Higbey, I think, was there ; Ebenezer Robinson and Daniel Pettigrew were there ; Edward Partridge was there ; David Frampton was not there ; Sheffield Daniels, I think, was not there ; Daniel Carr was there ; James H. Rawlins was there ; Morris Phelps, I think, was there.

Of the troops at Diahmon, in this expedition, some were sent on one expedition, and some on another ; but all were there mutually to aid and assist each other in all that they undertook or did on that occasion.

When we first went to Daviess, I understood the object to be to drive out the mob, if one should be collected there ; but when we got there, we found none. I then learned the object was, from those who were actively engaged in the matter, to drive out all the citizens of Daviess and get possession of their property. It was understood that they burnt Mormon houses, as well as the houses of the citizens. The burning of the Mormon houses was to bring the Mormons into Diahmon, as I understood it. It was said by some that the Mormons were burning their own houses, and, by others, that the mob were burning them ; and so much was said about it, that I did not know when I got the truth. I heard Demick B. Huntingdon, one of the Mormon troops, say that the Missourians at Gallatin had taken the goods out of Stolling's store, and piled them up and set fire to the storehouse, and had gone off for wagons to haul off the goods ; but that our wagons had got there first, and had hauled them off. I understood that the goods were deposited with the bishop of the church at Diahmon, as consecrated property to the church. A great deal of other property was brought into the Mormon camps ; but [I do not] know where it came from, but understood it to be consecrated property. It was frequently observed among the troops, that the time had come when the riches of the Gentiles should be consecrated to the Saints.

From the time of the return of the troops from Diahmon, the town of Far West was kept under military rule ; troops paraded and disciplined every day. It was a generally prevailing understanding among the troops—and seemed to be so much so towards the last, that no other impressions prevailed—"that they would oppose either militia or mob, should they come out against them ; for they considered them all mob at heart." This was about the time the militia arrived there. As to Hiram Smith, personally, I have thought him to be a good-meaning man ; but, in connexion with others, under the order of the Danite Society, I thought I had as much to fear from him as from others. As to the constitution, testified to by Dr. Avard, I never heard of it until he disclosed it when he was taken prisoner. I did not attend the first meeting in which the Danite band was formed. I did not see Hiram Smith, in the last expedition to Daviess, have arms upon his person ; but he constituted one of the counsellors of Joseph Smith, jr. ; and it was not usual for any of the presidency, composed of President Smith and his counsellors, to take arms and go into the ranks.

When I arrived at Diahmon, I staid the first night at Lyman Wight's house, and informed Wight that General Parks was coming out with the militia. Wight answered, that he did not wish Parks to come, and sent an express to him not to come. He remarked, they could settle the difficulties themselves. And further this deponent saith not.

JOHN CLEMINSON.

Reed Peck, a witness produced, sworn, and examined, on behalf of the State, deposeth and saith :

A short time after Cowdrey and the Whitmers left Far West, (some time in June,) George W. Robertson and Philo Dibble invited me to a Danite meeting. I went ; and the only speaker was Dr. Avard, who explained the object of the meeting, and said that its object was, that we might be perfectly organized to defend ourselves against mobs ; that we were all to be governed by the presidency, and do whatever they required, and uphold them ; that we were not to judge for ourselves whether it were right or wrong ; that God had raised up a prophet who would judge for us ; and that it was proper we should stand by each other in all cases—and he gave us an example : If we found one of the Danites in a difficulty, in Ray or Clay for instance, we should rescue him, if we had to do with his adversary as Moses did with the Egyptian—put him in the sand. It made no difference whether the Danite was to blame, or not ; they would pack to Far West, and there be taken care of. The question was asked, whether it would extend to a legal process ? Avard answered, not. The Danite oath was administered to about 30 or 40 persons at this meeting. Philo Dibble told me who the head officers of the Danite band were : that George W. Robertson was colonel, that he (Dibble) was lieutenant colonel, and Seymour Brunson major, and that I was chosen adjutant. After that, I had a talk with George W. Robertson and Philo Dibble together, in which I was informed who the officers were, as above ; and further, that Jared Carter was captain general of the band ; Cornelius P. Lott major general, and Sampson Avard brigadier general. This is as I recollect it. Dr. Avard, in speaking to the society, remarked, that it would be impossible for the presidency to explain their views or wishes to the head officers, and they to the members of the society. I was present at one meeting when the officers of the society were presented and introduced to the presidency, each

officer receiving a blessing from them. Avard stated that he had procured the presidency to come there, to show the society that what he had been doing was according to their direction or will ; and while there, the presidency approved of Avard's course in the society. Dr. Avard, however, did not explain to the presidency what his teaching had been in the society.

I heard Avard, on one occasion, say that the Danites were to consecrate their surplus property, and to come in by tens to do so ; and if they lied about it—he said Peter killed Annanias and Sapphira, and that would be an example for us. When appointed adjutant of the Danite band, as referred to above, I did not think proper to object openly, though I determined within myself not to act ; and the lists and other papers brought to me for recording, I threw aside and made no record of.

On the day before the last expedition to Daviess, I heard Joseph Smith, jr., in a speech, say, in reference to stealing, that in a general way he did not approve of it ; but that, on one occasion, our Saviour and his disciples stole corn in passing through the cornfields, for the reason that they could not otherwise procure any thing to eat. He told an anecdote of a Dutchman's potatoes, and said, in substance, that a colonel or captain was quartered near a Dutchman, from whom he wished to purchase some potatoes, who refused to sell them. The officer then charged his men not to be caught stealing the Dutchman's potatoes ; but next morning he found his potatoes all dug. I think it was in reference to the expedition to Daviess, and that they had been compelled to go out there so often that the people there ought to bear the expense.

Such men as would oppose things undertaken as being unlawful, and such as they feared was a violation of the law, I have heard Smith and Rigdon, in their public addresses, denominate " O, don't men." These I understood to be those who were denominated also dissenters ; and in reference to men who were hanging back, and did not wish to engage in their expeditions, they were called traitors ; and referring to such, as I understood, Mr. Rigdon proposed that blood should first begin to flow in the streets of Far West ; but his proposition did not carry. The proposition was then made, and carried unanimously, that those who thus hung back should be pitched upon their horses and made to go, and placed in the front of the army. All the above occurred in Far West, the day before the last expedition to Daviess. The following of the defendants were in the last expedition to Daviess county : Joseph Smith, jr., Henry Smith, P. P. Pratt, Lyman Wight ; Amasa Lyman, I am certain was not there ; George W. Robertson, Caleb Baldwin, Alanson Ripley were there, John Buckannon was not there ; George W. Harris, George Grant, and Darwin Chase were not ; Isaac Merley was not out ; Alexander McRay was there ; Ebenezer Robinson was there, and John S. Higbee, I think ; James M. Henderson was there ; Edward Partridge was there ; Francis Higbee, I think, was there ; George Kimble was there ; James W. Younger was there ; James H. Rawlins and Maurice Phelps were there.

When the troops arrived at Diahmon, they were divided into companies of twenty, forty, fifty, &c., just as they might be called for. Those companies were sent out in different parts of the country, as I saw them thus occasionally going out and coming in. I saw a company of about fifty, called a fur company, come once. Some had one thing, and some another : one I saw with a feather bed ; another had some spun yarn. I understood from some of those who were bringing property that they were to take it

to the bishop's store, and deposite it ; and if they failed to do so, it would be considered stealing.

As the property was brought in, there was a general shout of hurrah, and waving of hats, by those in camp. I heard Demick Huntington, one of the troops, tell in camp that the mob had burnt the storehouse in Gallatin, but that the Mormons had hauled off the goods ; and, also, that, the mob were burning some Mormon houses. I looked at him as though I did not believe it, and he stooped down to me (being on his horse) and whispered to me that it was Captain Brunson who had gone with twenty men to the Grindstone fork, who was burning those houses. The goods taken in Gallatin were generally understood in camp to have been deposited with the bishop, as consecrated property. When the companies would return from their expeditions, they would make their reports to the presidency who were there. As this company, above referred to as the Fur Company, passed with their plunder, I heard Mahlon Johnson, who lived in the lower part of Caldwell, ask Joseph Smith, jr. if these proceedings would not endanger the families living in that part of Caldwell county, and excite the people to come on them ; and Smith asked him what he was talking about—that this was the first step they had ever taken to quell the mob.

I heard Perry Keyes, one who was engaged in the depredations in Daviess, say that Joseph Smith, jr., remarked, in his presence, that it was his intention, after they got through in Daviess, to go down and take the store in Carrollton. This remark Smith made while in Daviess. After the Mormon troops returned to Far West from Daviess, I saw several of the captains of tens who had been in that expedition making out a list of their men, for the purpose, as they said, of being handed in, that they might receive their portion of the spoils.

I heard Darwin Chase say that he was in the expedition against Bogart.

Several days before the militia came to Far West, I learned through Mr. Arthur, of Clay county, that they were raising the militia. On Monday, before the militia arrived, I went out towards Crooked river to see if I could meet them. I met a young man, who informed me that General Doniphan was on Crooked river with the militia. I returned to Far West, and informed Mr. Rigdon and Joseph Smith, jr., as well as giving general information of the fact. I proposed to Mr. Smith to go next morning and try to find them ; to which he assented. I was disappointed in my effort, and returned late in the evening to Far West. Just as I arrived, I saw the militia, and I went down to them with a flag. I met with General Doniphan, who received me and told me they were about 1,300 in number, and that they were militia.

On my return to town, I met with Joseph Smith, jr., and informed him that the troops were militia, under General Doniphan's command, (as I then supposed was the case.) Mr. Smith asked me their number, and I told him. He replied, "Keep up good courage ; we can whip that number, if they make an attack upon us." Some other person came up at the time, and inquired of me their number ; and Mr. Smith answered that Mr. Phelps (who was a judge of numbers, having seen troops before) said that there were about 250, as he would suppose. Mr. George Robinson then whispered to me not to tell the men the number of the militia—that it would frighten them, or damp their courage.

[At this stage of the examination of Reed Peck, the following named defendants, viz : King Follet, Samuel Bent, Eeberry Brown, William Whit-

man, and Jonathan Dunham, were brought to the bar of the court, and put upon their trial for the offences alleged against the other defendants ; and, time being allowed them to employ counsel, they retired, and again returned to the bar, appearing by their counsel, Messrs. Rees and Doniphan. The examination of Reed Peck was then continued.]

Reed Peck deposeth and further saith : That Jonathan Dunham was in the last expedition to Daviess, and was captain of a company of 50, which I have spoken of as called the Fur Company. He went under the fictitious name of Captain Black Hawk. When the men were paraded, they were called out as all belonging to Captain Black Hawk's company. My impression is, that King Follet was not in that expedition ; but he was captain of 12 men in Far West, under the Danite order, as I understand, as he was neither an officer nor private of militia, and was known and called under the fictitious name of Captain Bull, and his company was called the Regulators. I saw William Whitman in the expedition to Daviess, and seemed to be one of the troops engaged with others. Some time previous to the difficulties in Daviess, the first time when the militia went out there for the purpose of keeping the peace, I heard Joseph Smith, jr., in a public address, say that he had a reverence for the constitution of the United States and of this State ; but, as for the laws of this State, he did not intend to regard them, nor care any thing about them, as they were made by lawyers and blacklegs. The above things were said some time in last July or August. On the eve of the last expedition to Daviess, I heard Joseph Smith, jr. say that they (meaning the heads of the church) had appealed to the Governor for protection, and he had sent us back word that we must fight our own battles. He further stated, that the law was unequally administered—all against us, and none for us—and spoke of the persecutions set on foot in Daviess as an instance ; and he then said, we must take our own cause in our own hands, and defend ourselves ; that he did not calculate to regard the laws any longer. I think it was the last of June, or first of July last, that I heard Dr. Avard say that he had just returned from a council with the presidency, in which council Jared Carter was broken of his office by Captain Gene, of the Danite band, for having spoken against Sidney Rigdon, one of the presidency ; it being a regulation of that society that no one should speak against them, or hear any one else do it, with impunity. In that council, Avard said, an arrangement was made to dispose of the dissenters, to wit : that all the head officers of the Danite band should have a list of the dissenters, both here and in Kirtland ; " And," said he, " I will tell you how I will do them : when I meet one damning the presidency, I can damn them as well as he ; and, if he wanted to drink, he would get a bowl of brandy, and get him half drunk, and, taking him by the arm, he would take him to the woods or brush, and said he would be into their guts in a minute, and put them under the sod." He gave this as an example of the way they should be disposed of. The only motive for getting rid of the dissenters in this way, as far as I ever learned, was, that, if they remained among the Mormons, they would introduce a class there that would ultimately endanger their lives, and destroy the church ; and if they were suffered to go out from among them, they would be telling lies on them in the surrounding country.

These reasons I gathered from Mr. Rigdon's salt sermon. And Mr. Rigdon said, in the same sermon, that he would assist to erect a gallows on the square, and hang them all. Joseph Smith, jr., was present, and followed Mr. Rigdon, after he had made the above declaration, and said he did not

wish to do any thing unlawful. He then spoke of the fate of Judas, and said that Peter had hung him, (Judas;) and said that he approved of Mr. Rigdon's sermon, and called it a good sermon.

And further this deponent saith not.

REED PECK.

James C. Owens, a witness who was produced on a former day, and testified, being called back, further deposeth and saith: He does not think that William Whitman was in the last expedition to Daviess; I think he was left at Far West, as captain of the town guard: though he may have been in Daviess for aught I know. And further this deponent saith not.

JAMES C. OWENS.

Remainder of Dr. Avar'd's testimony.

I never heard Hiram Smith make any inflammatory remarks; but I have looked upon him as one composing the first presidency; acting in concert with Joseph Smith, jr.; approving, by his presence, acts, and conversations, the unlawful schemes of the presidency.

I never saw Edward Partridge and Isaac Morley, two of the defendants, take any active part in the above measure testified to by me; and I have heard Joseph Smith, jr., say he considered Partridge a coward, and backward, and ought to be forced out * * * * or company.

I was continually in the society of the presidency, receiving instructions from them as to the teachings of the Danite band; and I continually informed them of my teachings; and they were well apprised of my course and teachings in the Danite society.

The following of the defendants were in the last expedition to Daviess county: Joseph Smith, jr., Hiram Smith, P. P. Pratt, Lyman Wright, George W. Robinson, Alanson Ripley, Washington Vories, Jacob Gates, George Grant, Darwin Chase, Moses Clawson, Alexander McRay, John S. Higbey, Ebenezer Page, James M. Henderson, Edward Partridge, Francis Higbey, Joseph W. Younger, Henry Zabriski, (doubtful,) James H. Rawlings, Maurice Phelps, James Newbury, (doubtful.) And further this deponent saith not.

SAMPSON AVARD.

George M. Hinkle, a witness for the State, produced, sworn, and examined, deposeth and saith: I was in Far West when the last Mormon expedition went to Daviess county. We heard of a great number of men gathering in Daviess, [mob;] I went down without being attached to any company, or without having any command; I found there were no troops [mob] gathered there. The Mormon forces consisted of about three hundred, as I suppose; they were engaged in scouting parties; some, it is said, went to Gallatin, and much mysterious conversation was had in camp about goods, and that they were much cheaper than in New York. This last remark was made by Parley P. Pratt. I saw goods of various kinds; but knew not from whence they came. It was a common talk in camps that the mob were burning their own houses and fleeing off.

There was much mysterious conversation in camps, as to plundering, and house-burning; so much so, that I had my own notions about it; and, on one occasion, I spoke to Mr. Smith, jr., in the house, and told him that

this course of burning houses and plundering, by the Mormon troops, would ruin us ; that it could not be kept hid, and would bring the force of the State upon us ; that houses would be searched, and stolen property found. Smith replied to me, in a pretty rough manner to keep still ; that I should say nothing about it ; that it would discourage the men ; and he would not suffer me to say any thing about it. Again, in a private conversation, I said to him I would not raise a mutiny by saying any thing publicly ; but I wished to talk to him privately, not wishing, however, to set myself up above him in the matter ; but that I wished to do it for the good of the church. I knew this was the way I could get to talk with him. I explained myself more fully than when in the house ; and told him I thought things were running to a dangerous extreme, and he ought to exercise his influence to stop it, as this course of things would ruin his people. He answered that I was mistaken, and that I was scared, and that this was the only way to gain our liberty and our point ; that the mob had begun it with us in Jackson county, and had been kept up to this day, and told me to be cheered up, and not to oppose him ; and he pledged himself in some way that it would go on right. I replied, I hoped for the better, and that it would be better than I anticipated. Both of the above conversations occurred in Diahmon, at the time the Mormon troops were assembled there.

There was a council held the evening after I arrived at Diahmon, as I learned from Hiram Smith and others, in which some officers were appointed. I do not recollect precisely how made ; but I think Lyman Wight was commander-in-chief of all the Mormon forces in Daviess county.

Neither of the Mr. Smiths seemed to have any command as officers in the field, but seemed to give general directions.

I saw a great deal of plunder and bee-steads brought into camp ; and I saw many persons, for many days, taking the honey out of them ; I understood this property and plunder were placed into the hands of the bishop at Diahmon, named Vincent Knight, to be divided out among them, as their wants might require.

There were a number of horses and cattle drove in ; also, hogs hauled in dead with the hair on ; but whose they were, I know not. They were generally called consecrated property. I think it was the day Gallatin was attacked. I saw Colonel Wright start off with troops, as was said, to Millport ; all this seemed to be done under the inspection of Joseph Smith, jr. I saw Wright when he returned ; the troops from Gallatin returned about the same time ; and I heard Smith find fault with Wright for not being as resolute as to serve Millport as they had served Gallatin ; this was remarked to me alone.

The following named defendants were in the last expedition to Daviess county : Joseph Smith, jr., Hiram Smith, Lyman Wright, Parley P. Pratt, George W. Robinson, (I think,) Washington Vories, (I think,) George W. Harris, Martin C. Alred, William Alred, (I think,) Darwin Chase, Alexander McRay, Ebenezer Robinson, (I believe,) Edward Partridge, (for a few days,) Joseph W. Younger, James W. Rollins, (for a few days,) and Maurice Phelps.

I returned into Caldwell county, and received an order from Judge Higbey to order out the militia of Caldwell, to defend the citizens against mobs. I issued that order to the different officers ; but I found them very much disorganized, and I inquired the reason why. They answered, they cared

nothing for their commissions ; that the organization of the Danite band had taken all power out of their hands. Under the order, considerate men turned out, but were not regularly enrolled.

On the day before the battle with Captain Bogart, there was a council held in Far West, in which Patten was appointed commander-in-chief of all the horse he could raise in Caldwell county. I inquired (inasmuch as I was commanding colonel of the militia of the county) how this was to be. President Smith told me that, if it reduced my command to ten men, I must be satisfied with it. So I went home, and retired to bed early. Next morning, about sunrise, I heard of the battle. Joseph Smith, jr., Lyman Wright, and perhaps some others, (who, I think, were not in the battle,) went to meet those with the wounded. The following named defendants I saw in the troop, return from the fight with Bogart : Parley P. Pratt, Caleb Baldwin, (I think,) and Norman Shearer.

On the evening that the militia arrived near Far West, I got into town, having been to hunt them that day to confer with them. When I arrived into town, with about one hundred men, I found them on foot. I saw other Mormon forces, formed in single line, in the brush, in a position to receive the militia, who were marching up. I went down, and learned from Mr. Pomeroy, of Ray county, that they were militia ; and I told him they need not come up to fight, we wanted to settle the matter without fighting. And, for fear of a collision between the two forces, I ordered the Mormons, formed in the brush, to retreat. At this time, Joseph Smith, jr. rode up and upbraided me for such an order, and told me it should not be done. He then ordered the men to stand, and talked harshly to me, charging me with cowardice. I knew it would not do to oppose his wishes, and returned home. He went and took command of the forces which I had with me that day, and which I had dismounted and formed as above stated ; and he marched them down to the other line of Mormons, who were formed to receive the militia. It was generally believed by all in Far West, for several days previous to their arrival, that the militia were coming out, and that these forces, when they arrived, were militia.

Along through the week that the fight was had with Bogart, it was a general understanding, given out by Joseph Smith, jr., that he calculated to fight any forces who should come against them, whether militia or mob ; and, if they pushed them too tight, they would march through Jefferson city : or the calculation was, that they would push the war to that effect.

I have heard Joseph Smith, jr. say that he believed Mahomet was a good man ; that the Koran was not a true thing, but the world belied Mahomet, as they had belied him, and that Mahomet was a true prophet.

The general teachings of the presidency were, that the kingdom they were setting up was a *temporal* as well as a spiritual kingdom ; that it was the little stone spoken of by Daniel. Until lately, the teachings of the church appeared to be peaceable, and that the kingdom was to be set up peaceably ; but lately a different idea has been advanced—that the time had come when this kingdom was to be set up by forcible means, if necessary. It was taught, that the time had come when the riches of the Gentiles were to be consecrated to the true Israel. This thing of taking property was considered a fulfilment of the above prophecy. The preachers who were sent out to preach their doctrines, were instructed to direct their converts to come up to Zion—meaning this upper part of Missouri.

I think the evening the militia arrived, Smith had a disposition not to

fight them—from what I could understand, more on account of their *numbers* than their characters.

I heard it said, (but whether it was in the council, where Patten was chosen commander-in-chief, or where, I do not recollect,) but I heard it stated, I think by Joseph Smith, jr., that the militia was a mob, and that the State of Missouri was a mob—or words to that effect.

When opposing President Smith, at Diahmon, above referred to, about the plundering of property, he remarked, it was impossible so many people could subsist there, without resorting to something of that kind.

After we came in from Diahmon to Far West, from the last expedition to Daviess, Joseph Smith, jr., said he intended to hoist a new flag, or standard, on the square in Far West, on which he intended to write "Religion aside, and free toleration to all religions, and to all people that would flock to it;" and that he believed thousands in the surrounding country would flock to it, and give him force sufficient to accomplish his designs in maintaining his flag and in carrying on the war.

The morning that I marched out of Far West, to meet the militia to confer with them, as above referred to, Joseph Smith, jr. made a speech to the troops who were called together, in which he said: That the troops which were gathering through the country were a damned mob; that he had tried to please them long enough; that we had tried to keep the law long enough; but, as to keeping the law of Missouri any longer, he did not intend to try to do so. That the whole State was a mob set; and that, if they came to fight him, he would play hell with their apple-carts. He told his people that they heretofore had the character of fighting like devils; but they should now fight like angels, for angels could whip devils.

While in Daviess, on the last expedition, I mentioned the great difficulties the course they were pursuing would likely get them into; the reply was, by a number of them, that, as the citizens had all fled, there would be none to prove it by but themselves, and they could swear as they pleased in the matter. These, I believe, were of the Danite order. And I understood from them that they could swear each other clear, if it should become necessary. While at Diahmon, I heard a conversation about having commenced the war, and I expressed doubts as to their being able to get along with it in the community. In that conversation, while many were present, I heard Lyman Wright say that the sword had now been drawn, and should not be sheathed until he had marched to De Witt, in Carroll county, into Jackson county, and into many other places in the State, and swore that he was able to accomplish it. While the last expedition was in progress in Daviess county, a portion of the troops returned to Far West, and was paraded in the square before Sidney Rigdon's house. Rigdon addressed them in a cheering and encouraging manner in the course they were pursuing. He held in his hand a letter from Joseph Smith, jr., in Daviess county, in which, he said, there was a profound secret, and the boys who were present were sent away. The letter, as near as I recollect it, was as follows: That our enemies were now delivered into our hands, and that we should have victory over them in every instance. The letter stated that, in the name of Jesus Christ, he knew this by the spirit of prophecy.

Since the return from Daviess, Joseph Smith, jr., told me, in reference to his plans, that if the citizens of Richmond and surrounding country rose and went out there to fight them, that he intended to have men to slip in behind them, and lay waste the county, and burn their houses. In the

council in Far West, a few days before the militia came out, I recollect, in making arrangements for the war, the presidency was to have the supreme rule, and that their war office, or headquarters, was to be at Diahmon, where, Joseph Smith, jr., said, they could have all necessary preparations to carry on the war in a warlike manner; and they were to have gone in a day or two to take their seats.

At the time Joseph Smith, jr., and myself, were under guard at Far West, he manifested a great disposition to converse about our difficulties, and said he heard I had turned against him; and proposed to me the idea of hanging together, and not testifying against each other; and if we suffer, all suffer together. I felt myself awkwardly situated, as I had heard that there was a combination of the Danites against me. I told him I would testify to nothing but the truth, let it fall on whom it would. And further this deponent saith not.

G. M. HINKLE.

William Splawn, a witness produced, sworn, and examined for the State, deposeth and saith, (he is a citizen of Daviess county:) I was at Eli Bazeley's, in Daviess county, when an armed company of men, about ten or twelve in number, came there. James H. Rollins and Jesse D. Hunter, two of the defendants, were of the company that came to Bazeley's. They inquired who I was, and if I was a mob character; and learning that I was not, they let me alone. They inquired for John Raglin; and said they heard he was a mob character, and had gone for men to fight them; and that if they got their eyes on him, they would take his life, and that he had better keep out of their way.

To be *positive* that Hunter was of the company, I will not; but I have little or no doubt of it, from his appearance. This was on Saturday, after I learned that Gallatin was burnt the Thursday before, and during the time that the Mormon troops were in Daviess county. And further this deponent saith not.

WILLIAM SPLAWN.

Thomas M. Odle, a witness for the State, produced, sworn, and examined, deposeth and saith: On the Saturday after Gallatin was burnt, an armed company of twelve men rode up to Mr. Raglin's house, in Daviess county, where I resided. They inquired for John Raglin. I told them where he had gone. They said their object was to drive out the mob from the county, and said that I must go. I replied that I could not; that I had no way to get off, and that my family were barefooted. They replied, that made no difference; I must go; and said if I was not gone by next morning's sun-rising they would take my life. They told Mrs. Raglin she must put out; that there she could not stay, and that Raglin had better never show himself there; that they would take his life if they ever set their eyes on him. Next morning, by the assistance of friends, we did start; leaving most of our property there. Since then I have returned, and found the houses burnt, and the property gone: consisting of household stuff; and twenty-nine bee-gums. The company above mentioned inquired for gums; and got down and took one gum from the house, belonging to one Joseph Littlefield. They further said, that they had been driven as long as they were a going to; that they had got strong enough now to defend themselves; that they intended to do it by the sword; that they were at the

defiance of any set of men that could come against them ; and that they now intended to make it a war of extermination.

The following of the defendants were in that company, viz : James H. Rollins, Jesse D. Hunter, Darwin Chase ; and I think, from his appearance, that Maurice C. Phelps was there, but may be mistaken. Hunter appeared to be captain, or commander, of the company, as he did most of the talking ; but most all of them had something to say. And further this deponent saith not.

his
THOMAS M. ✕ ODLE.
mark.

John Raglin, a witness for the State, produced, sworn, and examined, deposeth and saith : I was in Gallatin when the Mormons made an attack upon it, which took place one Thursday in October. All the persons that were there left the town ; and the Mormons, as I believe, they were to the number of about 150 or 200, all armed, took possession of the town ; and the store and other houses were burnt, as I learned, that evening. And further this deponent saith not.

his
JOHN ✕ RAGLIN.
mark.

Allen Rathbun, a witness for the State, produced, sworn, and examined, deposeth and saith : On the day before the battle with Bogart, I was in Far West ; and early in the morning Daniel Carn, one of the defendants here, asked me to help him grease his wagon. I did so, and asked him where he was going. He said he was going out to Mr. Raglin's, in Daviess county ; that there were about forty bee-stands there, that they were going for. Directly after, I was down in Morrison's store, in Far West. There was a company of ten or a dozen men there, with two or three wagons. I heard Mr. Huntingdon ask for brimstone. Some of the company said they had two pounds. Huntingdon answered that would do. Mr. Hunter, of the defendants, here gave the word of command, and they marched off—Mr. Daniel Carn, with his wagon, with them. Late that evening, I saw Mr. Carn's wagon at his grocery door, in Far West. I saw Carn and Huntingdon unloading it. The wagon was loaded with one bee-gum, and household stuff, consisting of beds, or bed clothes, *kinder* tied up ; also there were onions in the wagon. Mr. Carn, that evening, remarked that there would be in, that night, a considerable number of sheep and cattle ; and further remarked, that it looked to him sometimes that it was not right to take plunder, but that it was according to the directions of Joseph Smith, jr., and that was the reason why he did it. The next morning I saw a considerable number of sheep on the square in Far West—near about one hundred. I then left Far West, and returned home, (in the east part of Caldwell county,) having been summoned to Far West by my militia captain, but performed no military duties while there. And further this deponent saith not.

ALLEN RATHBUN.

Jeremiah Myers, a witness for the State, produced, sworn, and examined, deposeth and saith : I was in the last expedition to Daviess county ; being summoned from my home, (in the east part of Caldwell county,) by my militia officer, to go to Far West, where I was told we had to march to Daviess ; and did so. I think it was the third day after our arrival at Diahmon that

Captain Fearnaught's company, of about one hundred men, started out; and not until we got near to Gallatin did I learn where they were going. I was then told there was a mob in Gallatin, and that we were going to disperse them. When in about half a mile of Gallatin, we formed, and rushed into town with a huzzah. I saw only two men, who were running; others said there were about fifteen. We gathered up around the store, and some went in, hallooing to "bring them out here;" supposing there were men in the house. About this time, myself and another man returned to camp, at Diahmon. That evening I saw store-goods at the bishop's store; and was informed by Mahlon Johnston, one of the company to Gallatin, that the goods taken from the store in Gallatin were the goods I saw deposited at the bishop's store; they were called and considered consecrated property; and that they were to be dealt out by the bishop to those who stood in need.

I saw parties going out and coming in while in camp, but saw no property come into our camp; but I saw a pen of cattle, which were called buffalo.

The following, of the defendants were in the last expedition to Daviess: Joseph Smith, jr., Lyman Wright, (who resides in Diahmon,) Washington Vories, Ebenezer Page, Francis Higbey, Daniel Carr, James W. Rollins, and Maurice Phelps, I think was there.

I never saw Lyman Wright in command during this expedition. My camp was half a mile from Wright's; and I staid pretty constantly about my own camp. I do not recollect that I was in any other expedition than the one to Gallatin.

There was some property brought into Diahmon by the Mormons as their own: this was not deposited with the bishop, but they took it themselves. And further this deponent saith not.

JEREMIAH MYERS.

At this stage of the examination, the following named defendants, James Newberry and Sylvester Hewlett, were brought to the bar of the court, and put upon their trial for the offences alleged against the other defendants; and time being allowed them to procure counsel, they informed the court that they were ready to appear by themselves and their counsel, John B. Williams, Esq. The examination then progressed:

Andrew J. Job, a witness for the State, produced, sworn, and examined, deposeth and saith: While the Mormon troops were in Daviess county, in the last expedition, I was taken prisoner by Captain Fearnaught, (as he was called,) who, I have since learned, was a Mr. Patten. While they were getting me into Diahmon about midnight, I passed on between Millport and that place, and counted ten houses on fire. James H. Rollins, Ebenezer Page, James M. Henderson, Alanson Ripley, and Sidney Tanner, were of the company that took me prisoner.

When the houses were burning, I heard Ebenezer Page say that the mob were burning their own houses, and would lay it on the Mormons. I observed it was curious they should burn their own houses: he replied, it was, but they were doing so.

I arrived at Diahmon that night a prisoner, and was detained there until next morning about daybreak, when I, Ira Glaze, and William Bone, who were also taken prisoners, were turned loose by Lyman Wright, and told, that he would give us four hours to leave the county; and if they caught us after that time, we should not live any longer. Before we left, I heard

Lyman Wright say—Come, boys, feed your horses, and get your breakfast; we must try and scatter the mob.

After I left Diahmon, I went to my step-mother's, and made efforts to get out of the county. After the Mormons surrendered at Diahmon to the militia, I went with my step-mother to Diahmon, to hunt for her property, which had been left at the house when she moved, and which was missing on her return—such as beds, bed-clothing, knives and forks, a trunk, &c. On examination, we found at the house of Lyman Wright, and upon his bedstead, a feather bed, which I knew to be the one left by her at the time she fled from the Mormons. I knew the bed from its appearance; the tick was striped and pieced at the end, and the stripes of the piece turned crosswise; also, we found in Wright's house a set of knives and forks, which I knew were the same left at her house as above stated. My step-mother left her residence, (in two miles of Diahmon,) where she left the above articles, on Wednesday before I was taken prisoner, which was on the Sunday night after; and when at Diahmon, the night I was a prisoner, I slept on that same bed, as I believed it to be, at one Sloan's, as I understood his name to be. When my step-mother left her home near Diahmon, where the above articles were left, she went into the lower part of Daviess; to which place I went when turned loose as a prisoner. My father's name is Robert Job. And further this deponent saith not.

his
ANDREW J. ✂ JOB.
mark.

Freeburn H. Gardner, a witness on behalf of the State, produced, sworn, and examined, deposeth and saith: I was pressed to go in the expedition against Captain Bogart, and went part of the way, as far as to Bragg's place, about seven miles from Bogart's camp. While there, I heard D. Patten, who was called Captain Fearnought, lecturing the troops; heard him direct his men how to shoot—to bring their guns up on a rise to their object, and hold their breath, and fire; and generally they would make a deadly shoot; and that those they were a going to fight should not be able to hurt them; that their pieces should be elevated too high, or held too low.

When called on that night to go, I was informed by the man who came for me that the object was to disperse a mob down a crooked river. I proceeded no further than to Bragg's place. I left, and returned home.

The following named defendants were in the expedition against Bogart, viz: Darwin Chase, as he told me. Washington Vories was not in the expedition; he stated he had no horse to ride; and that if I would not go, he wished to get my horse to ride, that he might go. I replied, if the horse went, I must go with it; he answered, I might have his gun, (as I had none,) but that he would rather go himself. I took his gun, and joined the company as above. And further this deponent saith not.

his
FREEBURN H. ✂ GARDNER.
mark.

Burr Riggs, a witness for the State, produced, sworn, and examined, deposeth and saith: In the latter part of June last, immediately after the witness and Cowdrey left Far West, I fell into company with Joseph Smith, jr.,

and Geo. W. Robinson. Jos. Smith, jr., said there were certain men using their influence against the proceedings of the presidency, and if they were suffered to go on they would do great injury. And Smith told Robinson, the first man he heard speaking against the presidency, and against their proceedings, he must tie him up and give him thirty-nine lashes; and if that would not do, give him thirty nine more, until he was sorry for what he had said; and Robinson said he would do it.

About the latter part of July, I heard Sidney Rigdon say, Wm. W. Phelps and Dr. Williams, and he strongly suspected John Corrill, were using their influence against the presidency of the church; and further said, Corrill and Phelps were men of great influence in the country, and their influence must be put down.

I did not go out (with the troops) in the late expedition to Daviess; but my turn was passed. Four or five days after the Mormon troops had gone out, I learned that one of my horses was sick, and that I had better go out and attend to him. I went out to Diahmon, and got there in the evening; remained there that night, and returned to Far West next morning. While in Diahmon I saw a great deal of plunder brought in, consisting of beds and bed-clothes; I also saw one clock, and I saw 36 head of cattle drove in, and put into a pen. All the above property was called consecrated property; and I heard John L. Butler, one of the Mormons who was engaged in assisting to drive the cattle in, say that they had taken the cattle from the citizens of the Grindstone Fork; and said he had made a valuable expedition. I saw Ebenezer Robinson there, who had a gun-barrel in his hand. I asked him where he got it, and he told me that the evening before he had set a barn on fire, and that he heard the gun go off while the house was burning, and he went back and got the barrel out of the ruins of the barn.

The following of the defendants were in the last expedition to Daviess: Joseph Smith, jr., Hiram Smith, Lyman Wright. I think Amazy Lyman was not there; George W. Robinson was there; Alexander Riply was there; John Buchannon was not there; Jacob Gates, I think, was there; Geo. W. Harris was there; Jesse D. Hunter and Geo. Grant were there; Elijah Newman went out when I did, and, I think, returned next morning. There were some families going to Diahmon, and Newman went as one of a guard, to guard them out. Isaac Morley was not there; Thomas Rich was there and returned while the Mormon troops were in Daviess, with an express from Captain Fearnought to Sidney Rigdon, for some wagons, to move off families. Alex. McRay was there; John S. Higbey, I think was there; Ebenezer Robinson was there; Edward Partridge was there, and returned in a few days; I think Silas Manard was not there, Daniel Carn was there, I think; Wm. Whitmore was not out; Sylvester Hulett, I think, was in Far West during the expedition. Two or three days before the surrender of the Mormons to the militia at Far West, I heard Jos. Smith, jr. say that the sword was now unsheathed, and should not again be sheathed until he could go through these United States, and live in any county he pleased, peaceably. I heard this from him, also, before the last expedition to Daviess, when Gallatin and Millport were burnt, as well as afterwards; and I heard it on several occasions. I never heard Jos. Smith, jr., say that he would disobey the laws of the country. The following of the defendants were in the expedition against Bogart: P. P. Pratt, Darwin Chase, and Norman Shearer; Isaac Morley, I think, was not there; Joseph W. Younger was not there.

While the last expedition was going on in Daviess, there was a meeting in Far West, in which Mr. Sidney Rigdon presided. There were present about 60 or 100 men; a guard was put around the house, and one was placed at the door. Mr. Rigdon said that the last man had run away from Far West that was a going to; that the next man who started, he should be pursued and brought back, dead or alive. This was put to vote, and agreed to, without any one objecting to it. He further said, that one man had slipped his wind yesterday, and had been thrown aside into the brush for the buzzards to pick, and the first man who lisped it should die.

At this meeting companies were chosen, some to procure wood for the town, and some to procure meal for the army at Far West, and, also, for the families of those who were in the expedition to Daviess; and one company for spies. Sidney Rigdon said that these companies were necessary, and appointed men as heads of the companies, to make them up. Rigdon further stated, at this meeting, that the enemy were in their hands, and that they should prevail. He gave instructions to the spy company that they should go out to Richmond and surrounding country, to learn the movements of mobs; and that if they found any mob burning houses in Caldwell, be sure, said he, that you do the same thing to them. Amazy Lyman was the captain of this spy company. It was stated in this meeting, that the object in organizing a spy company was to be able to guard against mobs, which they said were coming on them from all quarters. When Mr. Rigdon was instructing the spy company, or apparently in conversation with them, above referred to, I heard it said that if they could not get rid of the mob in any other way, they could poison them to death. At the time of this last remark I was engaged in other conversation, and did not hear all that conversation. When Patten was raising his company to go against Bogart, he remarked that it (Bogart's company) was said to be militia; but it was a cursed mob, and that, in the name of the Lord, he would go and disperse them.

And further this deponent saith not.

BURR RIGGS.

Elisha Camron, a witness for the State, produced, sworn, and examined, deposeth and saith: The day before the battle with Bogart I was in Far West, and was taken prisoner. I saw Lyman Wright, and informed him that they were raising militia in Clay county, and that there was no mob out. He appeared to be very angry, and said he would fight any body that might come against them—that he did not care what came.

My oxen that I drove with me were taken and put to work, as I was told; and I did not recover them until after the Mormons surrendered to the militia. Wright, when conversing with me as above, appeared to be friendly with me, as he had been before.

And further this deponent saith not.

ELISHA CAMRON.

Charles Bleckley, a witness produced, sworn, and examined for the State, deposeth and saith: That, at the time when one of the houses at Millport was burning, I saw Joseph Smith, jr., Lyman Wright, Geo. W. Robinson, and two others, sitting on their horses looking at the burning. I also saw Mr. Turner, and a young Mr. Morin (both of whom lived in about half a mile of the place) there also.

Some of the company on horseback said the citizens had commenced it with them, and they intended to take satisfaction. Most of the houses at Millport had the appearance of having been burnt several days before. Wright told us we might get our families out of the county in peace ; that he, nor no person he could control, should hurt them ; nor would they interrupt any unarmed persons. He said he had no desire they should leave the county, if they could live in peace.

And further this deponent saith not.

CHARLES BLECKLEY.

James Cobb, a witness for the State, produced, sworn, and examined, deposeth and saith : That at the time [when] one of the houses at Millport was burning, I was there, and saw Joseph Smith, jr., Lyman Wright, Geo. W. Robinson, and two others, all on horseback, and Mr. Turner, and a son of Mr. Josiah Morin. The house (which was a stable) had just got in a way of burning.

And further this deponent saith not.

JAMES COBB.

Jesse Kelly, a witness produced, sworn, and examined for the State, deposeth and saith. That he is a citizen of Davies's county ; that about four days after the burning of Gallatin and Millport, myself and Addison Price were surrounded in a house in Daviess county, and taken prisoners by a company of Mormons ; they took from me three guns and a butcher-knife. Alexander McRay, the defendant, was captain of the company ; Caleb Baldwin, another defendant, was in the company. The captain asked us if we belonged to the mob, and we replied not ; he then said we had better join them, and come into Diahmon for protection ; I replied, that I would consider of that ; Mr. Price said to them, that he had moved his family into Livingston ; the captain then said, if we did not wish to fight them, we must leave the State ; for we intend said he, after we get possession of Daviess, to take Livingston ; and after that, keep on, till we take possession of the whole State.

The captain then asked Mr. Price if he knew whether the Governor would be up or not ; Price answered, he did not know ; the captain then remarked, he wished he would come up, that his scalp he would rather have than any other man's. There were thirty or forty armed men in this company, and, after carrying us about four miles on towards Diahmon, they released us, telling us we must leave the county immediately ; and if we did not want to fight them, we must leave the State immediately, for the State they intended to have. They said it was the mob who had plundered and burnt their own houses in Daviess, and then laid it on the Mormons ; a number of the company had something to say, pretty much to the same import with what was said by the captain.

And further this deponent saith not.

JESSE KELLY.

Addison Price, a witness in behalf of the State, produced, sworn, and examined, deposeth and saith : I am a citizen of Daviess county ; that about four days after Millport was burnt, I was taken prisoner, together with Mr. Kelly, by a company of armed Mormons, near forty in number ; they took from me a butcher-knife, bullet-moulds, and a bar of lead ; and a butcher-

knife, and three guns (one a shot gun, and two rifles) from Mr. Kelly, as he has himself stated. The guns were taken from Mr. Kelly, after they had taken us back to Mr. Kelly's house, where they found them; we having been taken prisoners about two miles from there. Alexander McRay, one of the defendants here, was captain of that company, and they sometimes called him general; and Caleb Baldwin was also of the company. The captain, on finding that I had removed my family and plunder into Livingston, asked me why I did so? I informed him that, as I had understood that when they came to a house they would take the beds, bedding, &c. off, I moved mine in time to save them. He advised me to go to them for protection, as there was obliged to be war there, and that I would have to fight on one side or the other. I replied, I did not think there would be war; he said there would oblige to be, and, if I did not wish to fight, I must leave the State. He frequently, in making these remarks, raised up his right hand, and warned me in the name of the Great God, to leave the county, and that I had better leave the State. It was said by several of the company, that, as soon as they had rid Daviess county, they would have Livingston, and, before they stopped, they intended to have the State. They asked me if I knew whether any one had gone for the Governor. I answered, I did not know; they said they understood he had been sent for, and was coming up into the Grand river country, to see what was going on; they said they only hoped he would, that they intended to scalp him the first man, as soon as he did come, for he was nothing but an infernal mob himself. There was a great deal more said in the way of threats. They inquired of me if I knew there were any mobs coming against them; I answered, that I knew of none; they said that the whole State was a mob. I asked them what they called themselves they answered, they were militia. After carrying us on towards Diahmon (where they said they intended to take us) about four miles, they released us. This company bore a white flag with them.

And further this deponent saith not.

ADDISON PRICE.

Samuel Kinnibel, a witness on behalf of the State, produced, sworn, and examined, deposeth and saith. That I reside near Far West, and was repeatedly warned, and my life threatened, if I did not go to Far West and take up arms. About a week before the surrender of the Mormons to the militia, I went to Far West; my name was enrolled, and I was forbid to leave the town, and was paraded twice a day, and the roll called. While there, I heard Joseph Smith, jr., in a speech to the company of perhaps two hundred under arms, say it was impossible to please a mob; that he had applied to the Governor, and he understood the Governor said he could do nothing for us. He said that the whole State was a mob, and that the Governor was nothing but a mob, and if he came upon them, he would make war upon him; he cursed the State as a damned mob, and said that God would damn them; he observed that the people might think he was swearing, but that the Lord would not take notice of it.

And further this deponent saith not.

SAMUEL KINNIBEL.

John Whitnear, a witness for the State, produced, sworn, and examined, deposeth and saith: About the 17th of April last, at a meeting of perhaps

fifteen or twenty-five in Far West, Joseph Smith, jr., spoke in reference to difficulties they had, and their persecutions, &c., in and out of the church. Mr. Smith said he did not intend in future to have any process served on him, and the officer who attempted it should die; that any person who spoke or acted against the presidency or the church, should leave the country or die; that he would suffer no such to remain there; that they should lose their head. George W. Harris, who was there present, observed, "the head of their influence, I suppose." Smith replied, Yes, he would so modify it. Mr. Rigdon then got up, and spoke in connexion with what Mr. Smith had been saying; and in speaking of the head of their influence, he said that he meant that ball on their shoulders, called the head, and that they should be followed to the ends of the earth. Mr. Rigdon further remarked, that he would suffer no process of law to be served on him hereafter.

Some time in June, after Mr. Rigdon had preached his "salt sermon," I held conversations with several Mormons on the subject of that sermon, and the excitement produced by the course and conduct of the presidency. Among others, I conversed with Alanson Ripley. I spoke of the supremacy of the laws of the land, and the necessity of, at all times, being governed by them. He replied, that as to the technical niceties of the law of the land, he did not intend to regard them; that the kingdom spoken of by the prophet Daniel had been set up, and that it was necessary every kingdom should be governed by its own laws. I also conversed with George W. Robinson, on the same subject, who answered, (when I spoke of being governed by the laws and their supremacy,) "when God spoke he must be obeyed, whether his word came in contact with the laws of the land or not; and that, as the kingdom spoken of by Daniel had been set up, its laws must be obeyed. I told him I thought it was contrary to the laws of the land to drive men from their homes; to which he replied, such things had been done of old, and that the gatherings of the saints must continue, and that dissenters could not live among them in peace.

I also conversed with Mr. J. Smith, jr., on this subject. I told him I wished to allay the (then) excitement, as far as I could do it. He said the excitement was very high, and he did not know what would allay it; but remarked, he would give me his opinion, which was, that if I would put my property into the hands of the bishop and high council, to be disposed of according to the laws of the church, he thought that would allay it, and that the church after a while might have confidence in me. I replied to him, I wished to control my own property. In telling Mr. Smith that I wished to be governed by the laws of the land, he answered, "Now, you wish to pin me down to the law." And further, this deponent saith not.

JOHN WHITNAER.

James B. Turnur, a witness for the State, produced, sworn, and examined, deposeth and saith: The day after Millport was burnt, in the evening I went up to Millport in company with young Mr. Morin: directly after our arrival, I saw Joseph Smith, jr., Hiram Smith, Lyman Wright, and two others, ride up. Mr. Cobb, the mail rider, and several of the Bleckleys, came up also. Cobb observed, "See what the damned Mormons have done!" speaking of the burning. Hiram Smith asked how he knew it was the Mormons? He said they had burnt Gallatin. Some of the Mormons replied, that Gallatin was burnt by the mob from Platte. Cobb then remarked, that all Clay and Ray were turning out to come against them.

Wight, or Smith, observed he did not believe that was true. Lyman Wight said their cause was just : he considered they were acting on the defensive, and he would as soon 50,000 should come as 500. And further this deponent saith not.

JAMES B. TURNER.

[At this stage of the examination, Clark Hallett and Joel S. Miles were arraigned, and, having time allowed them to procure counsel, they informed the court they did not wish counsel, and knew of no witnesses that they desired ; and that they were ready to progress in any trial, that might affect them ; whereupon the trial progressed.]

George W. Worthington, a witness on behalf of the State, produced, sworn, and examined, deposeth and saith : It was on Thursday, about the 18th day of October last, that Gallatin was taken by the Mormons. I reside in about a quarter of a mile of town. About one hundred Mormons, commanded by Captain Patten, as I have since learned, rushed into town ; seven or eight of the citizens were there, who immediately fled. A portion of the Mormons (about fifty) surrounded my house. They took a horse, saddle, and bridle, out of my yard, belonging to John A. Williams of Daviess county. They attempted to take my mare also, but ultimately agreed to let me have her ; but they took my gun. I wished to know the name of the man who got it, so that I might get it at some future day. The Captain told me I need not ask for names ; for they would not be given ; they then all went up into town, as they said, to attend to that store ; shortly after, three or four of them returned to my house again ; and one of them was Joel S. Miles, one of the defendants here ; they came after a Mormon girl, who was at my house ; and they told me that, if I belonged to neither party, I had better put off, and take the best of my property with me. After they left, I went up into town to see after some books, notes, and accounts, I had up in town ; but could not get hold of them, as they had been taken. I met with one of the company, some distance from Strolling's store, who told me if I would go to Diahmon I could get them, as well as a coat-pattern, which had also been taken. This person advised me to go to Diahmon, or Far West, for protection. I turned off from him to return home. I looked towards the storehouse, and saw the smoke in the roof ; and in a short time the flames burst out of the top of the house. I thought it best then for me to put out, seeing they were burning. It alarmed me, and I fixed, and did start, that evening, leaving something like \$700 worth of property in my house. After I left, my house was burnt, and the property gone. Since then, I have seen some of my property in a vacant house in Diahmon ; some in a storehouse ; some in a house said to be bishop Knight's ; all in Diahmon. These articles consisted of a clock, two glass-jars, a box-coat, a paper of screws, some paints, a canister of turpentine, and some planes, chisels, squares, &c. These were found since the surrender of arms in Diahmon, by the Mormons. I saw a number of articles also in Diahmon, at the time I was seeking after my property, which, I believe, were taken from Strolling's store, consisting of a leghorn bonnet, a castor, screw and hinges, or butts, which I knew belonged to Strollings. I saw a number of articles which had been concealed under ground, consisting of pots, ovens, and skilletts ; among them a pot belonging to myself. And further this deponent saith not.

GEO. W. WORTHINGTON.

Joseph H. McGee, a witness for the State, produced, sworn, and examined, deposeth and saith: On Thursday, the 18th day of October, I was at Mr. Worthington's, in Daviess county, when the Mormons made an attack upon Gallatin. Mr. Worthington had a pair of saddle-bags in my shop, (in Gallatin,) with notes and accounts in them; and he requested me to go up to the shop, and try to secure them. When I went up, the Mormons had broken open my shop, and taken them out; one of them had put the saddle-bags on his horse, and I asked him for them. He answered, that he had authority from Captain Hill to take them, and would not let me have them. He then told me I must go up to the store. I went along; and when I arrived there, Clark Hallett, one of the defendants, told him that he knew little Joe McGee; that there was no harm in him, and to let him go. I was then turned loose. While at the store, I saw the Mormons taking the goods out of the store house, and packing many of the articles off on their horses; a number of barrels and boxes were rolled out before the door. When these men who had goods packed before them, rode off, I heard a man, who remained at the store, halloo to one of them to send four wagons. I went down to Mr. Worthington's; and, in returning towards the store again, a short time after, I saw the smoke and flames bursting from the roof of the store house, and three men coming out of the house, who immediately rode off. The balance of the company had just previously left, except two, who were at Mr. Yales's, a citizen there, guarding him. I heard Parley Pratt order the men to take out the goods before the house was set on fire. I also saw Joel S. Miles there in the Mormon company. The following articles were taken out of my shop, in addition to Mr. Worthington's saddle-bags: two bed-quilts, a black broadcloth coat, three pair of pantaloons, two vests, a roundabout, two shirts, a pair of socks, a looking-glass, a pair of shoes, and some trimmings—such as thread, buttons, &c., all belonging to myself; $5\frac{1}{2}$ yards of broadcloth, with trimmings; also a vest pattern and trimmings, belonging to Mr. Worthington, and $2\frac{1}{2}$ yards of cloth, and the trimmings, belonging to James Handley; also, $3\frac{1}{2}$ yards of cloth, and a vest pattern and trimmings, belonging to Mabery Splawn; 7 yards of jeans and trimmings belonging to Enoch Riggs; also, 4 yards of jeans and trimmings belonging to Thomas Gilbrath; also, 4 yards of jeans and trimmings belonging to Mr. Creekinore, and $3\frac{1}{2}$ yards of jeans and trimmings belonging to James Bleckley. And further this deponent saith not.

J. H. MCGEE.

John Lockhart, a witness for the State, produced, sworn, and examined, deposeth and saith: That he was in Bogart's company, and was one of the picket guard on the morning of the attack. Myself and the other guards were standing at the same tree, near the road, about a quarter of a mile from the camp; and about day-break we discovered men approaching us in the road. When the front of them got within about 15 or 20 steps of us, the other guard raised his gun. I told him not to shoot, but to hail them. He hailed them, and asked "Who comes there?" They replied, "a friend;" but still moved on. I hailed the second time, and bade them to stand. I asked who was there; they answered, a friend. I asked them if they had any arms; they replied, a few. I told them to lay down their arms, and go off, and leave them; they told me to come and get them. I again told them to lay them down, and leave them; they made a noise with their

guns, as if they were laying them down, and again [called] to us to come and get them. I could see clear enough to perceive that they had not laid down their guns, as they said they had done; but had them on their shoulders. At that time I discovered one of the men strike the ground with his sword, and immediately I heard a percussion cap burst without the gun's firing. I told the other guard to shoot; that they had bursted a cap at us; and immediately I raised my gun and fired—the other did not shoot. We then ran to the camp, where, in a few moments, the Mormons arrived, and the action commenced.

When we were placed on guard, we had express orders to hail before we shot at any one. The company we hailed in the road was the same who attacked us.

And farther this deponent saith not.

his
JOHN ~~X~~ LOCKHART.
mark.

Porter Yates, a witness for the State, produced, sworn, and examined, deposeth and saith: I was at Gallatin, at my father's, when the Mormons made an attack upon it and burnt it. When they surrounded my father's house, they took two guns—one a shot gun, and one rifle. In going to the door, I saw one of them taking my mare out of the stable. I went over to see what he was doing; who observed "that it was a pretty good mare," and was about putting a bridle upon her. I told him, if she went, I would go along, (as I was determined to stick to my nag.) He replied, that he wanted me to go. I then caught my mare, and went with the company to Diahmon, where they kept me two or three days. There appeared to be about 100 Mormons (at Gallatin;) and a portion of them left with me for Diahmon, others were behind, coming on. Most of them had goods packed before them, on their horses, which had been taken from Strolling's store.

Two men went on ahead for wagons; and on my way to Diahmon we met two or three wagons, which they said were going after the goods. I left before the store was set on fire; but I heard some of the company command to take all the goods out before setting the house on fire.

The following of the defendants were in this expedition to Gallatin: Ebenezer Page, Morris Phelps, and Joel S. Miles. And the following of the defendants I saw at Diahmon, while I was there: Joseph Smith, jun., Lyman Wight, and James H. Rollins.

I was in Diahmon three days, and during that time saw a great deal of plunder brought in. Companies went out every day. A great deal of honey was also brought in, also cattle and hogs—all which was called consecrated property. I was a stranger to most of the men I saw. And further this deponent saith not.

PORTER YATES.

Benjamin Slade, a witness for the State, produced, sworn, and examined, deposeth and saith: I was in a meeting in the school-house in Far West, while the Mormon troops were in Diahmon, in the last expedition. After the assembly had got into the house, a guard was placed at the door. Mr. Rigdon got up, and, in a speech, said that the time had now come in which every man must take his part in this war; and that they had been

running away, and leaving Caldwell county, and that the last man had now left the county that should be allowed to do so. A formal vote, by way of resolution, or covenant, was put—that, if any man attempted to leave the county, any one of the company then present was to kill him, and say nothing about it, and throw him into the brush. When this was put to the vote, I heard no one vote against it. Rigdon then called for the negative vote, and said he wanted to see if any one dared to vote against it. There was no negative vote. There were other questions put and voted on; but I sat at the back part of the house, and did not distinctly hear what they were. I heard Mr. Rigdon say that “yesterday a man had slipped his wind, and was thrown into the brush;” and, said he, “the man that lisps it shall die.” Several companies were called for, and made up at this meeting—a spy, provision, and wood company, &c. And further this deponent saith not.

BENJAMIN SLADE.

[At this stage of the examination the following defendants, on motion of the attorneys prosecuting on behalf of the State, were discharged, there being no evidence produced against them, viz: Amazy Lyman, John Buckhannon, Andrew Whitlock, Abraham L. Tippetts, Jedediah Owens, Isaac Morley, John J. Tanner, Daniel S. Thomas, Elisha Edwards, Benjamin Covey, David Frampton, Henry Zabriski, Allen J. Stout, Sheffield Daniels, Silas Manard, Anthony Head, John T. Earl, Ebenezer Brown, James Newberry, Sylvester Hewlett, Chandler Halbrook, Martin C. Alfred, and William Alfred.]

Ezra Williams, a witness on behalf of the State, produced, sworn, and examined, deposeth and saith: I was in the last expedition to Daviess county, and saw the following of the defendants there, to wit: Joseph Smith, jun., Lyman Wight, Hiram Smith, George W. Robinson, Parley P. Pratt, Jacob Gates, Jesse D. Hunter, George Grant, Francis Higbey, Geo. Kimbel, Morris Phelps, Norman Shearer, and Lyman Gibbs. And the following named defendant was in the fight with Bogart, viz: Norman Shearer.

I was in Captain Patten's company when he took Gallatin and robbed the store. The goods were packed off (a great many of them) before the men, on their horses. My captain often gave me some, which I packed off before me, to Diahmon. They were deposited in a house on the river bank. And further this deponent saith not.

EZRA WILLIAMS.

Addison F. Green, a witness for the State, produced, sworn, and examined, deposeth and saith: The following of the defendants were in the expedition against Bogart, to wit: Lyman Gibbs, Norman Shearer, and Darwin Chase. I saw Joseph Smith, jun., Sidney Rigdon, Lyman Wight, and Francis Higbey, come riding up from towards Far West, meeting the company who had that morning fought with Bogart. They met the company near the timber of Log creek, in Caldwell county. I was one of the spy company from Far West; and the evening before the fight Captain Bogart had taken me prisoner in Ray county, but released me the same evening, and told me I could go home; but I thought proper to remain with them in camp that night. I was at a meeting in Far West, the Saturday before the fight with Bogart, in which a spy and other companies were organized.

I heard Sidney Rigdon (speaking of those who would attempt to leave the county at that time) say, "it was the duty of any present, if they saw such movements, to stop the men;" and if they persisted in going, he said something about sending them to the other world, to tell their hellish news; or something like this.

The evening that I and one Pinckun were taken prisoners, (who was liberated when I was,) our two horses were taken also. I knew of nobody about, who could have taken the news to Far West. And further this deponent saith not.

A. F. GREEN.

John Taylor, a witness on behalf of the State, produced, sworn, and examined, deposeth and saith: In the morning of the battle with Bogart, I was on the prairie a short time after the battle, and saw the Mormon company on their return. I saw Lyman Gibbs, one of the defendants, in the company. This was about one and a half mile from the battle-ground. Gibbs had arms, and charged me with being a mob; said he knew I was, &c. And further this deponent saith not.

his
JOHN ~~X~~ TAYLOR.
mark.

[John Taylor lives in Ray county, near the Caldwell line.]

Timothy Lewis, a witness for the State, produced, sworn, and examined, deposeth and saith: I was at Diahmon during the last expedition to Daviess county. I remained in the place during the time the Mormon troops were there. I was out on none of their scouting parties, but saw a great deal of property and plunder brought in, which was said to be consecrated property by those who brought it in, as well as by others. Those who were active in plundering, said they intended to consecrate all the property in Daviess county, and take the county to themselves. They said there was no law in this State, but that a law was about to be established by a higher Power, to be given by revelation.

The following of the defendants were in the expedition to Daviess county: Alanson Ripley, David Pettygrew, and Joseph W. Yonnger. Alanson Ripley resides in Diahmon, and is a surveyor. I saw him surveying, but did not see him take up arms. And further this deponent saith not.

his
TIMOTHY ~~X~~ LEWIS.
mark.

[Clark Hallett, one of the defendants, at this stage of the examination asked the court to assign him counsel, he not being able to employ counsel: wherenpon the court assigned Messrs. Rees, Doniphan, and Williams, as counsel.]

Patrick Lynch, a witness for the State, produced, sworn, and examined, deposeth and saith: I was living in Gallatin, a clerk in Strolling's store, when the Mormons took that place, which was about the middle of October last. When the Mormons had approached to within fifty or one hundred yards of the storehouse, I left, having first locked the door, and deposited the key in my pocket. I ran into the brush, between one hundred and two hundred yards of the storehouse, where I saw them taking the goods from the house; some were packed off on horses; and after that,

when near, half a mile off, I saw wagons, apparently loaded, which I believed to be goods from the store. I have found a number of articles taken from the store in Diahmon, since the surrender of arms there by the Mormons—such as tin-ware, painted muslin, a piece of bleached domestic, a piece of brown cloth, a lady's cloak, three pair of scales, and part of two sets of weights, a ledger, and three day-books, and the notes of hand to the amount of perhaps \$300, were taken from the store. The books have not been recovered, but the notes I found in the house of Bishop Knight, at Diahmon, in the possession of his wife, except such notes as were on Mormons; these we have not recovered. In about three hours after the Mormons took Gallatin, I returned, and found the store-house burnt. The post office and treasurer's office were kept in the storehouse, and the records, papers, &c., belonging to each were either taken off by the Mormons or consumed by the fire. And further this deponent saith not.

PATRICK LYNCH.

[At this point, the attorneys for the State informed the court that they had closed the testimony on behalf of the State, with the understanding (which was agreed to by the defendants' counsel) that after the testimony on behalf of the defendants is closed, the State shall be at liberty to introduce John Riggs, Perry Keyes, John Grigg, and Joseph Free, witnesses on behalf of the State, if they should make their appearance at or before that time.]

The court informed the prisoners that it would now proceed to take their examination without [oath] in relation to the offence charged; and the said defendants declined making any statement. The court then proceeded to the examination of witnesses for the defendants, to wit:

Malinda Porter, a witness for the defendants, produced, sworn, and examined, deposeth and saith: I have been living in the family of Lyman Wight for the last two years, as an inmate of the family. On Monday night of the arrival of the Mormon troops at Diahmon, in the last expedition to Daviess, I was at Lyman Wight's house; he was not absent from the house that night; his wife was sick, and a guard was placed around his house that night. Lyman Wight has two feather-beds, and one of them was taken away by an old lady, who, I was told, was a Mrs. Morgan, and who claimed it as hers. Of the bed taken away, the tick was striped, and pieced at one end; the stripes of the piece were crosswise. This bed has been in the family ever since I have lived in it. There were also some knives and forks taken from the house at the same time, and by the same person, which were the property of Lyman Wight; and three glass tumblers were also taken from his house, which was his property. During all the time that the Mormon troops were in Diahmon, Colonel Wight remained in Diahmon, and was not out in any scouting party. And further this deponent saith not.

MALINDA PORTER.

Delia F. Pine, a witness for the defendants, produced, sworn, and examined, deposeth and saith: I have been living in Lyman Wight's family since the 5th of July last, and was at his house when the Mormon troops arrived at Diahmon, in the last expedition to Daviess. That night Lyman

Wight remained at home all night. There was a bed in Wight's house, belonging to him, which was pieced at the end, and which has, since the surrender of the Mormons, been claimed and taken off by a woman, said to be a widow Morgan; also, she claimed and took some spoons, knives, and forks, which I knew were the property of Wight. I at no time have seen property at his house which did not belong to him. Lyman Wight never left Diahmon during the stay of the Mormon troops there, in the last expedition, which was during the whole time troops were in Daviess. And during the time they were in Daviess, I do not think Mr. Wight was out of my sight, at any time, more than an hour. It was Wednesday, before the snow fell, I think, that the Mormon troops arrived in Diahmon, and they staid in Daviess about a week. From the time the Mormon troops returned from Diahmon to Far West, (who had been in Daviess during the snow-storm, and among whom I saw Joseph and Hiram Smith,) Lyman Wight never was out of Diahmon, until he went with the Diahmon troops to Far West, the day before the Mormon troops, as I understood, surrendered to the militia; this last fact I am certain of. Mr. Wight's stable was in sight of his dwelling-house, and he kept his horse there, and his saddle in the house; and during the stay of the Far West troops, as above, I am sure he did not saddle his horse, or ride, for I should have seen him had he done so. And further this deponent saith not.

DELIA F. PINE.

Nancy Rigdon, a witness on behalf of the defendants, produced, sworn, and examined, deposeth and saith: I have heard Sampson Avard say that he would swear to a lie to accomplish an object; that he had told many a lie, and would do so again. When George W. Robinson went to Daviess, during the last expedition, he went after the troops had left Far West, and returned after some and before others had returned. I saw Mr. Robinson when he returned, and he had no clock with him, nor have I seen any clock about the house, which was brought from Daviess county. In the morning of the fight with Bogart, I heard my father, Sidney Rigdon, say that Captain Patten's company had gone down the night before, to see about a mob. He was apprized of their going, at the time of their going; but I knew nothing of it till that morning, when a messenger came to my father's, and informed him that there had been a fight. My father then started to meet the company, and to see those who were wounded. And further this deponent saith not.

NANCY RIGDON.

Jonathan W. Barlow, a witness for the defendants, produced, sworn, and examined, deposeth and saith: I was at Joseph Smith, jun.'s, house the morning after the battle with Captain Bogart. A messenger, (named, I think, Mr. Emmet,) came early in the morning after Smith, from Captain Patten, saying that Patten was wounded, and wished to see Smith. I caught Joseph Smith and Lyman Wight's horses, who started off together. (On cross-examination.) I did the feeding, watering of horses, cutting of wood, &c., about the place of Joseph Smith, jun.; and on that evening (the evening before Bogart's battle) I was absent from the house on that business perhaps half an hour, and finished about dark. I was in the house from that time through the night, and was not out, that I remember of—at least not longer than to go a few paces for a pail of water.

Joseph Smith, jun., and Lyman Wight, were both in the house all the time, and were not absent that night, that I know of; and had they been absent before bed-time long enough to have gone to the square up in town, I should most likely have known it; and I don't believe they were. They went to bed before I did; and when I went to bed, I passed through their room, where they were; and this was about 9 o'clock, or perhaps a little later. I heard no talking nor passing through the house that night; had there been any, I should most likely have heard it. And further this deponent saith not.

JONATHAN W. BARLOW.

Thorit Parsons, a witness on behalf of the defendants, produced, sworn, and examined, deposeth and saith: I was living in Caldwell county at the time of the battle with Captain Bogart, on the head of the east fork of Log creek, and about five or six miles from the battle-ground. On the day before the fight, between 1 and 3 o'clock in the evening, a company of twenty-three, mostly armed men, came to my house; they inquired my name, and told me I must go away—that I must leave that place. I asked them where I should go; they answered, that was my own lookout, and that I must leave there by next day night. They were strangers, all, to me; but I have seen the man since who had the command of them, and now think that it was Captain Bogart, as he looks like the man, having learned his name since. They further stated to me, that if they got the forces from Clinton county they expected, they would give Far West thunder and lightning before the next day night. All that was said to me, was sent immediately to Far West. I think that Lieut. Cook was also of the company, and was ordered by the captain to go in and look for guns. I told him I had none, and he said he would take my word for it. And further this deponent saith not.

THORIT PARSONS.

Ezra Chipman, a witness for the defendants, produced, sworn, and examined, deposeth and saith: I was at Lyman Wight's house, sick, during the late expedition to Daviess county. Lyman Wight was not out of Diahmon on any expedition, nor did he command any company during the stay of the Mormons at Diahmon, nor was he out of the town, to my recollection, during that time; had he been, I think I should most likely have known it. I saw a bed taken from Lyman Wight's house, after the surrender of arms by the Mormons at Diahmon, and claimed by the old lady who took it; the same bed I saw at Wight's, before the coming of the Mormons to Diahmon. During the stay of the Mormon troops at Diahmon, in the last expedition to Daviess, I am certain that Wight was not out of Diahmon half an hour at one time, for I think I saw him within every half hour during that time. And further this deponent saith not.

EZRA CHIPMAN.

Arza Judd, a witness on behalf of the defendants, produced, sworn, and examined, deposeth and saith: I was at the house of Thorit Parsons, in Caldwell county, on the day before the battle with Bogart; and a company of armed men (about twenty or upwards) came there, and, after asking me something about my faith, they ordered me to leave. Mr. Parsons asked where should we go; and they answered that was our look out. I do not know any of this company; they talked something of giving

Far West thunder and lightning before the next day night; they inquired for guns; and one, who seemed to command the company, said, "we must make haste to go—that Gilliam is to camp west of Far West to-night, and we must join him." And further deponent saith not.

ARZA JUDD, Jr.

[At this stage of the examination, the defendants (by their counsel) informed the court that they had closed the examination of their witnesses. The following witnesses were then produced, as rebutting testimony, on behalf of the State, to wit:]

Asa Cook, a witness for the State, produced, sworn, and examined, deposedeth and saith: That, on the day before the battle with Bogart, I was in the edge of Caldwell; but heard no man, nor did I myself, order Thorit Parsons, or any other man, away from his home; I met with a man, in the road in Caldwell county, going towards Far West, who said he was a Mormon; I told him to tell his leaders, when he arrived at Far West, that we were no mob, but militia, acting under General Atchinson's order. After this man left us, myself and two others, who constituted my company, turned across the prairie to the timber on the head-waters of Log creek, and, at a house in the edge of the timber, I met with a number of Captain Bogart's company, to which I belonged; and I heard Mr. Lockhart, one of the company, inquire (I think) where Parsons lived; and I understood the answer to be, from the man of the house, that he lived lower down the creek. I never heard Captain Bogart say any thing to this man like ordering him off. Captain Bogart had learned that he might probably be attacked that night, and he was out on the edge of Caldwell, to discover if the Mormons were making any movements indicating an intention to attack him.

There was a conversation at the house, (above referred to,) between John Lockhart and the man of the house, of a rough character, in relation to Parsons, (as I understood it,) but did not distinctly learn any thing said. I am lieutenant of the company, and there were no orders given, nor was it understood that any member of the company was authorized, to order any citizens to leave their homes. And further deponent saith not.

ASA COOK.

At this point, the testimony on both sides closed.

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GENERAL CLARK: I think you have now all the testimony. Colonel Price informed me that you and himself transcribed the testimony of W. W. Phelps and Reed Peck. If any is wanting, it is John Cleminson's; but I think I transcribed that in the book you took down with you. Below I give you a list of the witnesses, in the order they were examined; if the testimony of any is lacking, I will yet transcribe it for you.

I remain, very respectfully, yours, &c.,

O. H. SEARCY.

List of witnesses for the State.

Sampson Avard, Wyatt Cravens, General Atchinson's order, Nehemiah Odle, Captain Samuel Bogart, Morris Phelps, John Correll, Robert Snod-

grass, George Walter, George M. Hinkle, James C. Owens, Nathaniel Carr, Abner Scovel, John Cleminson, Reed Peck, James C. Owens (re-examined,) William Splawn, Thomas M. Odle, John Raglin, Allen Rathbun, Jeremiah Myers, Andrew J. Job, Freeburn H. Garduer, Burr Riggs, Elisha Camron, Charles Bleckley, James Cobb, Jesse Kelly, Addison Price, Samuel Kimbel, William W. Phelps, John Whitner, James B. Turnur, George W. Worthington, Joseph H. McGee, John Lockhart, Porter Yale, Benjamin Slade, Ezra Williams, Addison F. Green, John Taylor, Timothy Lewis, Patrick Lynch.

For the defendants.

Malinda Porter, Delia F. Pine, Nancy Rigdon, Jonathan W. Barlow, Thorit Parsons, Ezra Chipman, Arza Judd, jr.

Rebutting testimony for the State.—Asa Cook.

[There are occasionally a few words in the testimony inserted in brackets ; these are not in the original, but are inserted for the better understanding of what the witness testified.]

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William W. Phelps, a witness on the part of the State, produced, sworn, and examined, deposeth and saith : That, as early as April last, at a meeting in Far West of eight or twelve persons, Mr. Rigdon arose, and made an address to them, in which he spoke of having borne persecutions, and law-suits, and other privations, and did not intend to bear them any longer ; that they meant to resist the law, and, if a sheriff came after them with writs, they would kill him ; and, if any body opposed them, they would take off their heads. George W. Harris, who was present, observed, You mean the head of their influence, I suppose ? Rigdon answered, he meant that lump of flesh and bones called the skull, or scalp. Joseph Smith, jr., followed Mr. Rigdon, approving his sentiments, and said, that was what they intended to do. Both, in their remarks, observed, that they meant to have the words of the presidency to be as good and undisputed as the words of God ; and that no one should speak against what they said. Hiram Smith was not in Far West at this time, and [I] think he was not in the country. Some time in June, steps were taken to get myself and others out of the county of Caldwell, and efforts were made to get the post office from me, (being postmaster,) by a demand for it. I explained the law, which seemed satisfactory, and it was given up. I then informed the second presidency of the church, by letter, that I was willing to do any thing that was right, and, if I had wronged any man, I would make satisfaction. I was then notified to attend a meeting. Sidney Rigdon, in an address, again brought up the subject of the post office. I told them if public opinion said I should give it up, I would do so ; but they [would] have to await the decision of the Postmaster General ; which they agreed to do, with the understanding that a committee of three should inspect the letters written and sent by me, as well as those received by me. This committee, however, never made their appearance. After my case was disposed of, another man's was taken up ; he attempted to speak in his defence, and said he was a republican. Several rushed up towards him,

and stopped him, telling him if he had any thing to say in favor of the presidency, he might say it, and that was their republicanism. Joseph Smith, jr., Sidney Rigdon, and Hiram Smith, who compose the first presidency, were there. It was observed in the meeting, that, if any person spoke against the presidency, they would hand him over to the hands of the Brother of Gideon. I knew not, at the time, who or what it meant. Shortly after that, I was at another meeting, where they were trying several—the first presidency being present; Sidney Rigdon was chief spokesman. The object of the meeting seemed to be, to make persons confess, and repent of their sins to God and the presidency; and arraigned them, for giving false accounts of their money and effects they had on hand; and they said, whenever they found one guilty of these things, they were to be handed over to the Brother of Gideon. Several were found guilty, and handed over as they said. I yet did not know what was meant by this expression, “the Brother of Gideon.” Not a great while after this, secret or private meetings were held; I endeavored to find out what they were; and I learned, from John Corrill and others, they were forming a secret society called Danites, formerly called the Brother of Gideon. In the meeting above referred to, in which I was present, one man arose to defend himself; and he was ordered to leave the house, but commenced to speak; Avard then said, “Where are my ten men?” Thirty or more men arose up; whereupon the man said he would leave the house. At this meeting, I agreed to conform to the rules of the church in all things, knowing I had a good deal of property in the county, and, if I went off, I should be [obliged] to leave it. For some time before and after this meeting, an armed guard was kept in town and one of them at my house, during the night, as I supposed, to watch my person. In the fore part of July, I being one of the justices of the county court, was forbid by Joseph Smith, jr., from issuing any process against him. I learned from the clerk of the circuit court that declarations had been filed against Smith, Rigdon, and others, by Johnston; and, in reference to that case, Smith told Cleminson, the clerk, that he should not issue a writ against him. I observed to Mr. Smith, that there was a legal objection to issuing it; that the cost (meaning the clerk’s fee) had not been paid. Smith replied, he did not care for that; he did not intend to have any writ issued against him in the county. These things, together with many others, alarmed me for the situation of our county; and, at our next circuit court, I mentioned these things to the judge and several members of the bar. A few days before the 4th day of July last, I heard D. W. Patten (known by the fictitious name of Captain Fearnought) say that Rigdon was writing a declaration, to declare the church independent. I remarked to him, I thought such a thing treasonable—to set up a government within a Government. He answered, it would not be treasonable if they would maintain it, or fight till they died. Demick Huntington, and some others, made about the same remark. Sidney Rigdon’s 4th of July oration was the declaration referred to. Along through the summer and fall, a storm appeared to be gathering; and, from time to time, I went out into Ray and Clay counties; saw and conversed with many gentlemen on the subject, who always assured me that they would use every exertion, that the law should be enforced; and I repeatedly made these things known in Caldwell county, and that there was no disposition among the people to raise mobs against them from these counties. I never was invited, nor did I

attend any of their secret meetings. I was at the meeting the Monday before the last expedition to Daviess, having learned that steps would be taken there which might affect me. At this meeting, the presidency, together with many others, were there, to the number of perhaps 200 or 300, or more. Joseph Smith, jr., I think it was, who addressed the meeting, and said, in substance, that they were then about to go to war in Daviess county; that those persons who had not turned out, their property should be taken to maintain the war. This was by way of formal resolution, and was not objected to by any present. A motion was then made, by Sidney Rigdon, that the blood of those who were thus backward should first be spilled in the streets of Far West; a few said, Amen to this. But immediately Mr. Joseph Smith, jr., before Rigdon's motion was put, rose, and moved that they be taken out into Daviess county, and, if they came to battle, they should be put on their horses with bayonets and pitchforks, and put in front: this passed without a dissenting voice. There was a short [speech] made then, by Joseph Smith, jr., about carrying on the war; in which he said it was necessary to have something to live on; and, when they went out to war, it was necessary to take spoils to live on. This was in reference to the dissenters, as well as to the people of Daviess, where they were going. In this speech, he told the anecdote of the Dutchman's potatoes.

Finding I should have to go out, and not wishing to be put in front of the battle, I sought a situation, and went out with my wagon. This was the expedition in which Gallatin and Millport were burnt. I went on to Diahmon a few days after the Mormon troops had gone out. I went to the tavern, late at night, where I found Joseph Smith, jr., Hiram Smith, and others. I informed J. Smith that the Clay troops had returned home, some 40 or 50 in number; but told him that General Parks was in Far West, and his troops just behind.

There was a conversation among them as to what they would [do:] and they came to the conclusion to send down to Lyman Wight, at his house, for him to send an express to General Parks that his troops were not needed. Some time before day I awoke, and found Lyman Wight and Captain Fearnought in the house; he said he had sent the express to General Parks, informing him that his militia was not needed. Wight asked J. Smith, twice, if he had come to the point now to resist the law; that he wanted this matter now distinctly understood. He said he had succeeded in smoothing the matter over with Judge King, when he was out, and that he defied the United States to take him, but that he had submitted to be taken because he (Smith) had done so. This was in reference to the examination for the offence for which he and Smith had been brought before Judge King in Daviess. Smith replied, the time had come when he should resist all law. In the fore part of the night after my arrival, I heard a good deal of conversation about drawing out the mob from Daviess. I heard J. Smith remark, there was a store at Gallatin, and a grocery at Millport; and in the morning after the conversation between Smith and Wight about resisting the law, a plan of operations was agreed on, which was: that Captain Fearnought, who was present, should take a company of 100 men, or more, and go to Gallatin, and take it that day; to take the goods out of the store in Gallatin, bring them to Diahmon, and burn the store. Lyman Wight was to take a company, and go to Millport on the same day; and Seymour Brunson was to take a

company, and go to the Grindstone fork on the same day. This arrangement was made in the house, before day, while I was lying on the floor. When I arose in the morning, some of the companies were gone; but I saw Lyman Wight parade a horse company, and start off with it towards Millport. I also [saw] a foot company the same day go off.

On the same day, in the evening, I saw both these companies return; the foot company had some plunder, which appeared to be beds and bed-clothes, &c. They passed on towards the bishop's store, but I know not what they did with the plunder. I remained in the camps one day and two nights at Diahmon, when I returned to Far West. The night before I started to Far West, an express was sent from Joseph Smith and Lyman Wight's to Rigdon, at Far West; but what was the contents of the express I know not. When I returned to Far West, I had a message in reference to having wood and provisions provided for the families of those persons living in Far West, who were in Daviess; and, for the purpose of giving that information, I was invited to a school-house, where it was said the people had assembled. I went there, and was admitted. The men being paraded before the door when I arrived, in number about 40 or 50. It was remarked that these were true men; and we all marched into the house. A guard was placed around the house, and one at the door.

Mr. Rigdon then commenced making covenants, with uplifted hands. The first was, that, if any man attempted to move out of the county, or pack their things for that purpose, that any man then in the house, seeing this, without saying any thing to any other person, should kill him, and haul him aside into the brush; and that all the burial he should have should be in a turkey buzzard's guts, so that nothing of him should be left but his bones. That measure was carried in form of a covenant, with uplifted hands. After the vote had passed, he said, Now see if any one dare vote against it, and called for the negative vote; and there was none. The next covenant, that, if any persons from the surrounding country came into their town, walking about—no odds who he might be—any one of that meeting should kill him, and throw him aside into the brush. This passed in a manner as the above had passed. The third covenant was, "conceal all these things." Mr. Rigdon then observed, that the kingdom of heaven had no secrets; that yesterday a man had slipped his wind, and was dragged into the hazel brush; and, said he, "the man who lisps it shall die." There were several companies organized at this meeting, and volunteers called for; and I, having [been] assigned the command of the express company, called for volunteers—wanting to be doing something to make a show. Amasa Lyman, a defendant, was in that meeting, and was appointed by Mr. Rigdon captain of a company whose duty it was to watch the movements of the enemy, or mob, in Buncombe; and if they hurt one house in Caldwell, his company was to burn four of theirs; and men were selected, who were strangers in the community where they were, to act towards the latter part of the instructions. To Lyman's company, Rigdon observed, that if the inhabitants in the surrounding country commenced burning houses in Caldwell, if they could not get clear of them in any other way, they would poison them off. This last remark I did not understand as being particularly addressed to Lyman as a part of the duties of his company, but seemed [to be] addressed to the meeting generally. This meeting was on Saturday, and

on the next Monday I returned to Diahmon, with seven or eight wagons, three or four of which were moving some families, that I had been directed to take to Diahmon for use there. I arrived at Diahmon that evening, and, next morning four of the wagons were loaded and sent back to Far West. Joseph Smith, jr., and Hiram Smith, perhaps, informed me they wanted four wagons—a part of which was to haul beef and pork to Far West; and what the balance of the loading was, I did not know; but these wagons, brought out by me, were pointed out, and taken back to Far West. I remained in the camps in Diahmon that day; my wagon and another went down to Millport, and brought up Slade's goods which were there. Slade is not a Mormon, but has three brothers residing in or about Far West, who are Mormons.

The following of the defendants were in the last expedition to Daviess:

Joseph Smith, jr.,

P. P. Pratt,

Lyman Wight,

George W. Robinson,

Alanson Ripley,

George W. Harris.

Elijah Newman was one of my men.

Isaac Morley was not there.

Alexander McRay was there.

Ebenezer Robinson was there.

Edward Partridge was there.

James H. Rawlins was there.

Sheffield Daniels, I think, was not there.

Samuel Bent was there, and he was called Captain Black Hawk.

While in Adam on Diahmon, I saw George W. Robinson, with a clock under his arm, which I afterwards saw in Far West, and which was claimed by a Mr. McLaney, of Daviess county, as his property, after the arrival of General Clark at Far West.

And further this deponent saith not.

W. W. PHELPS.

MISSOURI, CITY OF JEFFERSON, *office of Secretary of State*:

I, James L. Miner, Secretary of State of the State of Missouri, do hereby certify that the foregoing is a true and correct copy of the evidence on file in this office, purporting to have been taken before the Hon. A. A. King in November, 1838, on a court of inquiry into certain charges against the persons herein named, so far as the same appears from the records.

In testimony whereof, I have hereunto set my hand and affixed the [L. s.] seal of said office, this first day of February, A. D., eighteen hundred and forty-one.

JAS. L. MINER,
Secretary of State, Missouri.

